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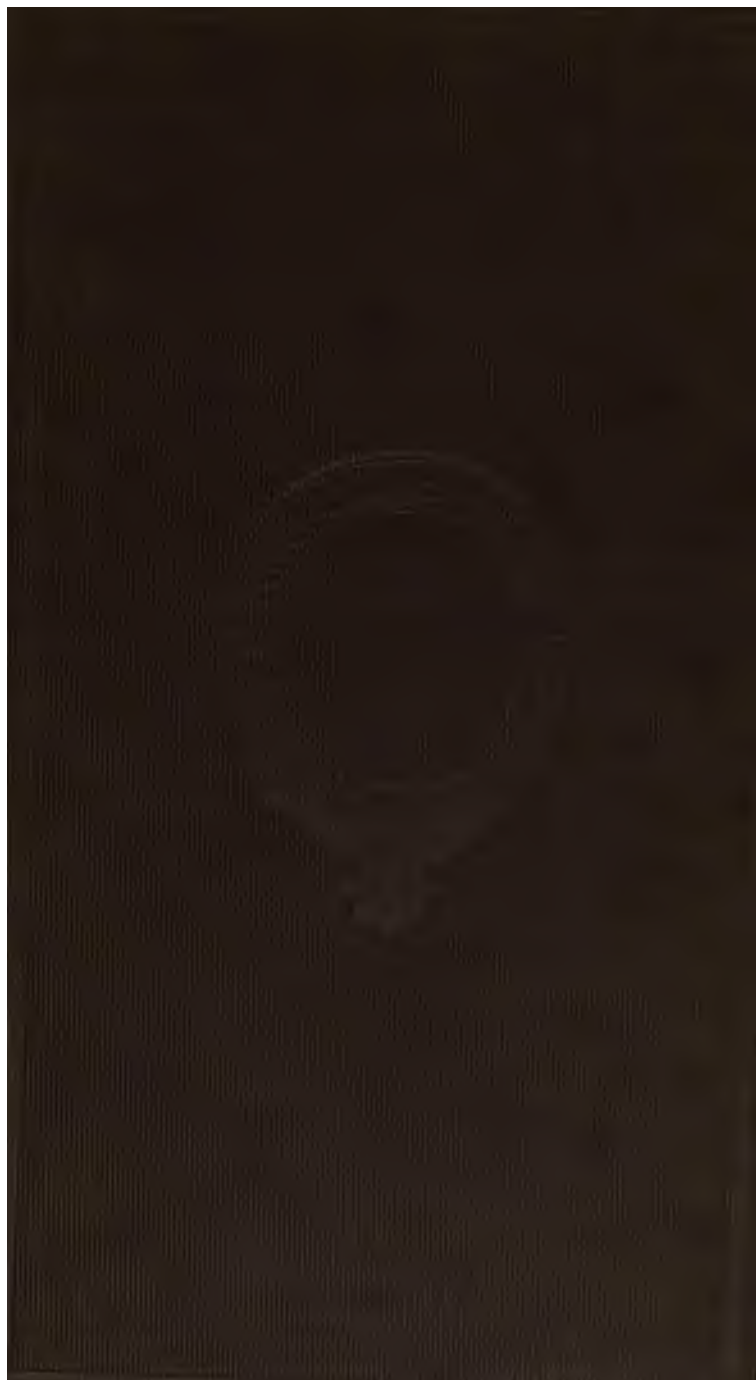
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The Acts
REGULATING THE DUTIES
OF
JUSTICES OF THE PEACE,
OUT OF SESSIONS,

WITH RESPECT TO
INDICTABLE OFFENCES, SUMMARY CONVICTIONS AND ORDERS,

(11 & 12 VICT. CO. 42, 43,)

AND FOR THE PROTECTION OF JUSTICES IN THE
DISCHARGE OF THOSE DUTIES,

(11 & 12 VICT. C. 44,)

KNOWN AS

JERVIS'S ACTS;

TOGETHER WITH

**The Act for the Submission of Points of Law
for the Opinion of the Superior Courts,**

(20 & 21 VICT. C. 43.)

Second Edition.

BY
W. CUNNINGHAM GLEN, Esq.

BARRISTER-AT-LAW.

LONDON:
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1861.

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PREFACE.

THE importance of the Justices Acts, known as Jervis's Acts, to those engaged in the administration of Criminal Justice and in proceedings before Justices in Petty Sessions, can scarcely be over-estimated. They contain within themselves a complete code of magisterial practice with relation to indictable offences, and to summary convictions and orders, and they provide for the due protection of the Justices in the fair and reasonable discharge of their duties. Since Sir Robert Peel's and the Marquis of Lansdowne's Acts, no measure has passed the legislature which has so much improved the local administration of justice in England as the statutes known as Jervis's Acts, and the admirable manner in which they have worked is the best evidence of the skill and judgment with which they were framed.

The first of the series contained in this work relates to the duties of Justices out of Sessions with respect to persons charged with indictable offences; it defines the duties of the Justices, with respect to such offences, and, step by step, from the issuing of the summons or

warrant to the discharge or final commitment of the accused for trial, indicates the course of proceeding to be adopted. The second relates to the duties of Justices with respect to summary convictions and orders; and the third is for their protection from vexatious actions for acts done by them in the execution of their office.

The publication of a second edition of this work has been taken advantage of to add to it the statute of the 20th and 21st Victoria, which enables Justices to submit to the Superior Courts at Westminster points of law arising in cases adjudicated upon summarily by them in Petty Sessions. The 11 & 12 Vict. c. 78, provided for the decision of any difficult question of law that might arise in criminal trials; but until the 20 & 21 Vict. c. 43, there was no power by which the decision of the Justices who had adjudicated in summary proceedings within their jurisdiction upon a point of law could be removed into a Superior Court for the consideration and authoritative decision of that Court.

The rule is well established that no appeal lies from a decision of Justices either in a matter of fact or law, unless it be expressly given by statute; but though the 20 & 21 Vict. c. 43, remedies that defect in respect of questions of law, it leaves untouched appeals in which matters of fact are involved, which therefore still lie only to Quarter Sessions, when they are expressly allowed by statute. The general effect of the statute is to allow an appeal against any conviction or order of Justices

to a Superior Court of Common Law upon the ground that it is erroneous in point of law. Except where the application is made for a case to be stated under the direction of the Attorney General, the Justices may refuse to allow the appeal if they are of opinion that the application is merely frivolous; but in such a case the appellant, if he think fit, may apply to the Court of Queen's Bench for a rule calling upon them to show cause why the appeal should not lie.

The form of the appeal is by special case, which is to be stated and signed by the Justices, provided the application for that purpose be made in writing, and security to prosecute be given within three days after their decision. The appellant on receiving the case is to give a copy of it and notice of appeal to the respondent, and is to transmit the case itself (without *certiorari*) to the Superior Court within three days after he has received it. The Court or a Judge at chambers is then to decide the question, and order as to costs, and the decision is to be enforced by the Justices.

The Act has been most salutary in its operation, and the extent to which its provisions are resorted to is thus adverted to by Lord Chief Justice Cockburn in a letter which he addressed, on the 21st April, 1860, to Lord Campbell, then Lord Chancellor, on the subject of remodelling the Divorce Court:—"New duties," he said, "have been thrown on the Courts,—for instance, on the Court of Queen's Bench, by the power of

appeal from the decisions of Magistrates in Petty Sessions, given by the Act 20 & 21 Vict. c. 43,—which, added to the former appeals from Quarter Sessions, produces an amount of Crown business which occupies the Court two days a week in every term.”

In the present edition of this work the decisions of the Courts upon the various points which have arisen on the construction of the several statutes contained in it have been carefully noted up to the date of publication; and much pains have been taken to enhance the usefulness of the work to the practitioner by the copiousness of the Index.

The order of the Secretary of State prescribing the scale of allowances to prosecutors and witnesses, pursuant to the 14 & 15 Vict. c. 55, is contained in the Appendix.

5, ELM COURT, TEMPLE.

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[14th August, 1848.]

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II.—CONVICTIONS OR ORDERS.

11 & 12 VICTORIA, CAP. 43.

An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions, within England and Wales, with respect to Summary Convictions and Orders.
[14th August, 1848.]

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20 & 21 VICTORIA, CAP. 43.

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THE
JUSTICES' ACTS.

INDICTABLE OFFENCES.

11 & 12 VICTORIA, CAP. 42.

An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales, with respect to Persons charged with Indictable Offences. [14th August, 1848.]

WHEREAS it would conduce much to the improvement of the administration of criminal justice within England and Wales if the several statutes and parts of statutes relating to the duties of Her Majesty's justices of the peace therein, with respect to persons charged with

Note to Section 1.—The authority of justices of the peace extends to all treasons, felonies, or indictable misdemeanors, or other indictable offences whatsoever, committed within the limits of their respective jurisdictions; and also to the causing to be apprehended all persons guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of their jurisdiction, when such person is or is suspected to be residing within the limits of their jurisdiction. By the commission of the peace, as originally settled, (Michaelmas Term, 1590,) in the reign of Queen Elizabeth, by Sir Charles Wrey, then Lord Chief Justice of the King's Bench, and the other judges and barons, and not since altered, the duties of justices of the peace are defined in the following terms:—

“VICTORIA, by the grace of God, &c., to — greeting.

“Know ye, that we have assigned you jointly and severally and every one of you our justices to keep our peace in our county of —; and to keep and cause to be kept all the ordinances and statutes for the good of our peace, and for preservation of the same, and for the quiet rule and government of our people made, in all and singular their articles, in our

indictable offences were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and

said county (as well within liberties as without), according to the force, form, and effect of the same;—and to chastise and punish all persons that offend against the form of those ordinances or statutes, or any one of them, in the aforesaid county, as it ought to be done, according to the form of those ordinances and statutes;—and to cause to come before you, or any of you, all those who, to any one or more of our people concerning their bodies or the firing of their houses, have used threats, to find sufficient security for the peace or their good behaviour, towards us and our people; and if they shall refuse to find such security, then them in our prisons until they shall find such security to cause to be safely kept.

“We have also assigned to you, and every two or more of you (of whom any one of you the aforesaid A. B., C. D., &c., we will shall be one) our justices to inquire the truth more fully, by the oath of good and lawful men of the aforesaid county, by whom the truth of the matter shall be the better known, of all and all manner of felonies, poysonings, inchantments, sorceries, art magick, trespasses, forestallings, regratings, ingrossings, (a) and extortions whatsoever;—and of all and singular other crimes and offences, of which the justices of our peace may or ought lawfully to inquire, by whomsoever and after what manner soever in the said county done or perpetrated, or which shall happen to be there done or attempted;—and also of all those who in the aforesaid counties in companies against our peace, in disturbance of our people, with armed force have gone or rode, or hereafter shall presume to go or ride;—and also of all those who have there lain in wait, or hereafter shall presume to lie in wait, to maim or cut or kill our people;—and also of all victuallers, and all and singular other persons, who in the abuse of weights and measures, or in selling victuals, against the form of the ordinances and statutes or any one of them therefore made for the common benefit of England, and our people thereof, have offended or attempted, or hereafter shall presume in the said county to offend or attempt;—and also of all sheriffs, bailiffs, stewards, constables, keepers of gaols, and other officers, who in the execution of their offices about the premises or any of them, have unduly behaved themselves, or hereafter shall presume to behave themselves

(a) The offences of forestalling, regrating, and ingrossing were abolished by the 7 & 8 Vict. c. 24.

Commons, in this present parliament assembled, and by the authority of the same, that in all cases where a charge or complaint (A.) shall be made before any one or more of Her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place, ^{For what offences a justice of the}

unduly, or have been or shall happen hereafter to be careless, remiss, or negligent in our aforesaid county;—and of all and singular articles and circumstances, and all other things whatsoever, that concern the premises or any of them, by whomsoever and after what manner soever in our aforesaid county done or perpetrated, or which hereafter shall there happen to be done or attempted in what manner soever;—and to inspect all indictments whatsoever so before you or any of you taken or to be taken, or before others late our justices of the peace in the aforesaid county made or taken, and not yet determined;—and to make and continue processes thereupon against all and singular the persons so indicted, or who before you hereafter shall happen to be indicted, until they can be taken, surrender themselves, or be outlawed;—and to hear and determine all and singular the felonies, poysonings, inchantments, sorceries, art magick, trespasses, felonies, forestallings, regratings, ingrossings, extortions, unlawful assemblies, indictments aforesaid, and all and singular other the premises, according to the laws and statutes of England, as in the like case it has been accustomed, or ought to be done;—and the same offenders and every one of them for their offences by fines, ransoms, amerciaments, forfeitures, and other means, as according to the law and custom of England, or form of the ordinances and statutes aforesaid, it has been accustomed, or ought to be done, to chastise and punish.

“ Provided always, that if a case of difficulty upon the determination of any of the premises before you or any two or more of you shall happen to arise, then let judgment in nowise be given thereon before you or any two or more of you, unless in the presence of one of our justices of the one or other bench, or of one of our justices appointed to hold the assizes in the aforesaid county.

“ And therefore we command you and every of you, that to keeping the peace, ordinances, statutes, and all and singular other the premises, you diligently apply yourselves; and that at certain days and places which you or any such two or more of you as is aforesaid shall appoint for these purposes, into the premises ye make inquiries; and all and singular the premises hear and determine, and perform and fulfil them in the aforesaid form, doing therein what to justice appertains, according to the law and custom of England; saving to us the amerciaments, and other things to us therefrom belonging.

peace may
grant a
warrant
or summons
to cause a
person
charged
therewith
to be brought
before him.

within England or Wales, that any person has committed or is suspected to have committed any treason, felony, or indictable misdemeanor, or other indictable offence whatsoever, within the limits of the jurisdiction of such justice or justices of the peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such justice or justices is residing or being or is suspected to reside or be within the limits of the jurisdiction

“And we command by the tenor of these presents our sheriff of the said county of —, that at certain days and places, which you or any such two or more of you as is aforesaid shall make known to him, he cause to come before you or such two or more of you as is aforesaid, so many and such good and lawful men of his bailiwick (as well within liberties as without), by whom the truth of the matter in the premises shall be the better known and inquired into.

“Lastly, we have assigned you the aforesaid A. B. keeper of the rolls of our peace in our said county; and therefore you shall cause to be brought before you and your said fellows, at the days and places aforesaid, the writs, precepts, processes, and indictments aforesaid, that they may be inspected, and by a due course determined as is aforesaid.

“In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the second day of August, in the twenty-second year of our reign.

C. ROMILLY.”

Properly speaking the powers of justices of the peace are of two kinds, judicial and ministerial. Their judicial powers extend to the trial at general or quarter sessions of persons charged with offences; and also to the hearing of informations and complaints at petty sessions, and adjudicating thereupon. Their ministerial powers relate to the receiving of informations and complaints as to indictable offences, as well as other offences which they may be empowered by statute to determine in a summary way; to the signing of poor rates, making orders of removal; orders under the Lunacy Acts; and to the enforcing of convictions or orders by commitment, or by warrant of distress; summoning offenders, taking bail, and the like. Not only is the authority of the justices by this statute extended to all indictable offences without exception, but it is also extended as regards the place where the offence may have been committed; that is to say, they may under this section issue their warrant for the apprehension of a person charged with or suspected of having committed any indictable offence either within or beyond the limits of their jurisdiction, provided in the latter case the person charged is within or suspected to be

of such justice or justices, then and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such justice or justices of the peace to issue his or their warrant (B.) to apprehend such person, and to cause him to be brought before such justice or justices, or any other justice or justices for the same county, riding, division, liberty, city, borough, or place, to answer to such charge or complaint, and to be further dealt with according to law: Provided always, that in all cases it shall be lawful for such justice or justices to whom such charge or complaint shall be preferred, if he or they shall so think fit,

In what cases the party may be sum-

within the limits of their jurisdiction, but in the former case it is immaterial where the person may be at the time of the issue of the warrant. If the person charged be beyond the limits of the justices' jurisdiction the warrant may be backed in the manner directed by s. 11, *post*, and be then executed if the offender be found within the jurisdiction of the justices by whom it is backed. It may be necessary to observe here that a constable at common law is not justified in imprisoning a person in the belief that he has committed a misdemeanor. *Griffin v. Colman*, 28 L. J. (N. S.) Exch. 134. Neither can a constable legally take a person into custody on a charge of felony made by another if the charge rests on no reasonable grounds, or on grounds which are unreasonable. *Hogg v. Ward*, 3 H. & N. 417; 27 L. J. (N. S.) Exch. 443; 4 Jur. (N. S.) 885; 22 J. P. 626.

As to the jurisdiction of justices for offences against the customs, see 16 & 17 Vict. c. 107, ss. 275-277. That Act provides that for the purpose of giving jurisdiction under it, any offence shall be deemed to have been committed, and every cause of complaint to have arisen, in the place in which it was actually committed or arose, or in any place on land where the offender or person complained of may be brought.

The 11 & 12 Vict. c. 42, by sec. 32, is not to extend to Scotland or Ireland, or to the Isles of Man, Jersey, or Guernsey, save and except the provisions contained in it respecting the backing of warrants. As to backing Scotch and Irish warrants in England, see ss. 12-15, *post*. As to the apprehension of persons who have committed offences in any English colony and have escaped therefrom into England, or *vice versa*, see 6 & 7 Vict. c. 34.

The provisions of the Act 22 & 23 Vict. c. 17, for the prevention of vexatious indictments, may be usefully inserted in this place: it enacts—

Section 1. After the first day of September, one thousand

moned instead of issuing a warrant in the first instance.

instead of issuing in the first instance his or their warrant to apprehend the person so charged or complained against, to issue his or their summons (C.) directed to such person, requiring him to appear before the said justice or justices at a time and place to be therein mentioned, or before such other justice or justices of the same county, riding, division, liberty, city, borough, or place as may then be there, and if after being served with

eight hundred and fifty-nine, no bill of indictment for any of the offences following, viz., perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, keeping a gambling house, keeping a disorderly house, and any indecent assault, shall be presented to or found by any grand jury, unless the prosecutor or other person presenting such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless such indictment for such offence, if charged to have been committed in England, be preferred by the direction or with the consent in writing of a judge of one of the superior courts of law at Westminster, or of Her Majesty's attorney-general or solicitor-general for England, or unless such indictment for such offence, if charged to have been committed in Ireland, be preferred by the direction or with the consent in writing of a judge of one of the superior courts of law in Dublin, or of Her Majesty's attorney-general or solicitor-general for Ireland, or (in the case of an indictment for perjury) by the direction of any court, judge, or public functionary authorized by an Act of the session holden in the fourteenth and fifteenth years of Her Majesty, chapter one hundred, to direct a prosecution for perjury. *

Section 2. That where any charge or complaint shall be made before any one or more of Her Majesty's justices of the peace that any person has committed any of the offences aforesaid within the jurisdiction of such justice, and such justice shall refuse to commit or to bail the person charged with such offence to be tried for the same, then in case the prosecutor shall desire to prefer an indictment respecting the said offence, it shall be lawful for the said justice and he is hereby required to take the recognizance of such prosecutor to prosecute the said charge or complaint, and to transmit such recognizance, information, and depositions, if any, to the court in which such indictment ought to be preferred, in the same manner as such justice would have done in case he had committed the person charged to be tried for such offence.

such summons in manner hereinafter mentioned he shall fail to appear at such time and place, in obedience to such summons, then and in every such case the said justice or justices, or any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, may issue his or their warrant (D.) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer to the said charge or complaint, and to be further dealt with according to law: Provided nevertheless, that nothing herein contained shall prevent any justice or justices of the peace from issuing the warrant hereinbefore first mentioned at any time before or after the time mentioned in such summons for the appearance of the said accused party.

If the summons be not obeyed, then a warrant may be issued.

II. And be it enacted, that in all cases of indictable crimes or offences of any kind or nature whatsoever committed on the high seas, or in any creek, harbour, haven, or other place in which the admiralty of England

Warrant to apprehend for offences committed on the high seas or abroad.

Note to Section 2.—Offences on the high seas, &c.] The jurisdiction of the admiralty extends to the high seas, and the harbours, creeks, and havens of foreign countries, but not to the harbours, creeks, and havens of this country; in the latter the ordinary common law courts have exclusive jurisdiction; and by the common law of nations every country exercises rights of jurisdiction within three miles of the coast. The boundaries of the respective jurisdictions are thus described by Mr. Archbold, in his work on the office of a Justice of the Peace: "If an imaginary line were drawn across the mouth of such creek, &c. from one point of land to the other, of all offences committed within such line, the common law would have jurisdiction; but all offences committed without the line would be within the jurisdiction of the admiral: As to the sea-shore, below low water mark, the admiral has exclusive jurisdiction; above high water mark the courts of common law have exclusive jurisdiction; and between high and low water mark, the courts of common law and the admiral have alternate jurisdiction,—the courts of common law have jurisdiction of all offences committed on the strand when the tide is out, the admiral jurisdiction of

have or claim to have jurisdiction, and in all cases of crimes or offences committed on land beyond the seas, for which an indictment may legally be preferred in any place within England or Wales, it shall be lawful for any one or more of Her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place within England or Wales in which

offences committed on the water when the tide is in." But in a recent case it has been decided that the part of the sea-shore which lies between high and low water mark is within and part of the adjoining county; so that the justices of the county have jurisdiction to take cognizance of offences committed thereon, whether the land be covered with water or not at the time the offence is committed. *Embleton v. Brown*, 30 L. J. (N. S.) M. C. 1; 25 J. P. 38.

With respect to offences against the customs, see the Customs Consolidation Act, 16 & 17 Vict. c. 107, ss. 269-289. As regards the jurisdiction of the justices in offences under that Act, s. 275 enacts, "that where any offence shall be committed in any place upon the water not being within any county of the United Kingdom, or where the officers have any doubt whether such place is within the boundaries or limits of any such county, such offence shall for the purposes of this Act be deemed and taken to be an offence committed on the high seas; and for the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place on land where the offender or person complained against may be or be brought." The 7 Vict. c. 2, for the more speedy trial of offences committed on the high seas (s. 3), also provides, with reference to the place where offenders shall be tried, that the justice or justices by whom any information shall be taken touching any offence committed within the jurisdiction of the admiralty of England under the 7 Geo. 4, c. 38, if he or they shall see cause thereupon to commit such person to take his trial for such offence, "shall commit him to the same prison to which he would have been committed to take his trial at the next court of oyer and terminer and general gaol delivery, if the offence had been committed on land within the jurisdiction of the same justice or justices, and shall have authority to bind by recognizance all persons who shall know or declare anything material touching the said offence, to appear at the next court of oyer and terminer and general gaol delivery, then and there to prosecute or give evidence against the party accused, and shall return all such informations and recognizances to the proper officer of the court in which the trial is to be, at or before the opening of the court."

any person charged with having committed or with being suspected to have committed any such crime or offence shall reside or be, or shall be supposed or suspected to reside or be, to issue his or their warrant (E.) to apprehend the person so charged, and to cause him to be brought before him or them, or some other justice or justices of the peace for the same county, riding, division,

By the Act to amend the Merchant Shipping Act, 1854, the 18 & 19 Vict. c. 91, s. 21, it is provided that "If any person, being a British subject, charged with having committed any crime or offence on board any British ship on the high seas or in a foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's dominions, which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits: provided that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six."

An English ship upon the high seas is to be considered as part of the territory of England; and therefore a foreigner who, whilst on board such ship, commits an offence against the English laws, is amenable to those laws; and it makes no difference whether he has gone on board voluntarily or has been taken and detained there against his will. A person is "found" within the jurisdiction of a court of justice, within the meaning of the 18 & 19 Vict. c. 91, s. 21, when he is actually present there, whether he has come within such jurisdiction voluntarily, or has been brought there against his will. *Reg. v. Lopez*; *Reg. v. Sattler*, 27 L. J. R. (N. S.) M. C. 48; 4 Jur. (N. S.) 98; 22 J. P. 84.

Offences abroad.] As regards the trial of British subjects in England for offences committed abroad, it is enacted by 9 Geo. 4, c. 31, s. 7, "that if any of Her Majesty's subjects shall be charged in England with any murder or manslaughter, or with being accessory before the fact to any murder, or after the fact to any murder or manslaughter, the same being respectively committed on land out of the United Kingdom, whether within the Queen's dominions or without, it shall be lawful for any justice of the peace of the county or place where the person so charged shall be, to take cognizance of the offence so charged, and to proceed therein as if the same had been committed within the limits of his ordinary jurisdiction." And so also, "where any person being feloniously

liberty, city, borough, or place, to answer to the said charges, and to be further dealt with according to law.

Warrant to apprehend a party against whom an indictment is found.

III. And be it enacted, that where any indictment shall be found by the grand jury in any court of oyer and terminer or general gaol delivery, or in any court of general or quarter sessions of the peace, against any person who shall then be at large, and whether such person shall have been bound by any recognizance to appear to answer to the same or not, the person who shall act as clerk of the indictments at such court of oyer and terminer or gaol delivery, or as clerk of the peace at such sessions, at which the said indictment shall be found, shall at any time afterwards, after the end of the sessions of oyer and terminer or gaol delivery or sessions of the peace at which such indictment shall have been found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of one shilling, if such person shall not have already

stricken, poisoned, or otherwise hurt upon the sea, or at any place out of England, shall die of such stroke, poisoning, or hurt in England; or being feloniously stricken, poisoned, or otherwise hurt in England, shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of England." *Id.* s. 8.

The 12 & 13 Vict. c. 96, provides for the prosecution and trial in Her Majesty's colonies of offences committed within the jurisdiction of the admiralty, and for the purposes of the Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except the United Kingdom and the Islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively; and by the Act of the 23 & 24 Vict. c. 88, the word "colony" shall include and apply to every part and place heretofore under the government of the East India Company, or which may be under the government of Her Majesty in India, and all the provisions of the 12 & 13 Vict. c. 96, shall be construed and take effect accordingly.

In proceedings under section 2 of the 11 & 12 Vict. c. 42, any justice for the county or other district in which the person charged shall reside or be, or shall be supposed or suspected to reside or be, may issue his warrant to apprehend, and proceed in the same manner, both as to backing the warrant and otherwise, as if the offence were committed within his jurisdiction.

Note to Section 3.—With respect to vexatious indictments, see 22 & 23 Vict. c. 17, *ante*, p. 5.

appeared and pleaded to such indictment, grant unto such prosecutor or person a certificate (F.) of such indictment having been found; and upon production of such certificate to any justice or justices of the peace for any county, riding, division, liberty, city, borough, or place in which the offence shall in such indictment be alleged to have been committed, or in which the person indicted in and by such indictment shall reside or be, or be supposed or suspected to reside or be, it shall be lawful for such justice or justices, and he and they are hereby required, to issue his or their warrant (G.) to apprehend such person so indicted, and to cause him to be brought before such justice or justices, or any other justice or justices for the same county, riding, division, liberty, city, borough, or place, to be dealt with according to law, and afterwards, if such person be thereupon apprehended and brought before any such justice or justices, such justice or justices, upon its being proved upon oath or affirmation before him or them that the person so apprehended is the same person who is charged and named in such indictment, shall, without further inquiry or examination, commit (H.) him for trial, or admit him to bail, in manner hereinafter mentioned; or if such person so indicted shall be confined in any gaol or prison for any other offence than that charged in the said indictment, at the time of such application, and production of the said certificate to such justice or justices as aforesaid, it shall be lawful for such justice or justices and he and they are hereby required, upon it being proved before him or them upon oath or affirmation that the person so indicted and the person so confined in prison are one and the same person, to issue his or their warrant (I.) directed to the gaoler or keeper of the gaol or prison in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody until by Her Majesty's writ of *habeas corpus* he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of his custody by due course of law.

If person indicted be already in prison for some other offence, justice may order him to be detained until removed by writ of habeas.

Power to
justice to
issue war-
rants on
Sundays.

IV. And be it enacted, that it shall be lawful for any justice or justices of the peace to grant or issue any warrant as aforesaid or any search warrant on a *Sunday* as well as on any other day.

Justices for
adjoining
counties, &c.
may act
as such for
one county,
&c. while
residing in
another.

V. And be it enacted, that in cases where a justice of the peace for any county, riding, division, liberty, city, borough, or place shall be also justice of the peace for a county, riding, division, liberty, city, borough, or place next adjoining thereto or surrounded thereby, it shall and may be lawful for such justice of the peace to act as such justice for the one county, riding, division, liberty, city, borough, or other place whilst he is residing or happens to be in the other such county, riding, division, liberty, city, borough, or other place, in all matters and things hereinbefore or hereafter in this Act mentioned; and that all such acts of such justice, and the acts of any constable or other officer in obedience thereto, shall be as valid, good, and effectual in the law to all intents and purposes as if such justice at the time he shall so act as aforesaid were in the county, riding, division, liberty, city, borough, or other place for which he shall so act; and all constables and other officers for the county, riding, division, liberty, city, borough, or

All acts of
justice, &c.
to be valid.

Note to Section 4.—This section has removed the doubt which formerly existed as to whether a warrant could be issued by a justice of the peace on a Sunday. But it should be borne in mind that it is only a warrant for the apprehension of a person charged with an indictable offence that can be so issued. A writ cannot be issued on a Sunday; and it will be void if it bear date on a Sunday (*Hanson v. Shackleton*, 4 Dowl. 48); therefore a warrant to apprehend for non-payment of a penalty, or of money under a justice's order, as a poor rate, it being in the nature of a civil proceeding, cannot be issued on a Sunday. As to the execution of a warrant on a Sunday, see 29 Car. 2, c. 7, s. 6, and note to s. 10, *post*.

Note to Section 5.—This section enables a justice of the peace for two or more districts adjoining each other, as two counties, ridings, or divisions of a county, or a borough and a county, or for a district surrounded by another, as a borough surrounded by a county, &c. to act, whilst he is in one of these districts, for the other district, and has remedied a defect in the law, as it formerly existed, in this respect.

place for which such justice shall so act as aforesaid are hereby authorized and required to obey the warrants, orders, directions, act or acts of such justice which in that behalf shall be granted, given, or done, and to do and perform their several offices and duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty; and any such constable or other peace officer, or any other person, apprehending or taking into custody any person offending against law, and whom he lawfully may and ought to apprehend or take into custody, by virtue of his office or otherwise, in any such county, riding, division, liberty, city, borough, or place, may lawfully take and convey such person so apprehended and taken as aforesaid to and before any such justice of the peace, for such county, riding, division, liberty, city, borough, or place whilst such justice shall be in such adjoining county, riding, division, liberty, city, borough, or place as aforesaid, and the said constables and other peace officers, and all such other persons as aforesaid, are hereby authorized and required in all such cases so

Constables, &c. apprehending offenders in one such county, &c. may take them before such justice in the adjoining county, &c. if he act as a justice in both.

It is one of the oldest rules of law that although a thing is alleged with greater particularity than it need to have been, yet it must be proved as alleged, for the party is bound by his description.—Thus, if it be alleged that an act was done by a person in one capacity and it appears that he did it in another, that would not be sufficient. In an action for breaking and entering a stable of the plaintiff, the defendant justified under a search warrant alleged to have been issued by a justice of the peace for the county of S. in which the stable was situated. At the trial the search warrant produced appeared to have been issued by a justice of the peace for the borough of W. situated in the county of S. of which county he was also a justice of the peace; this was held to be a fatal variance, but that it might be amended. *Webb v. Ross*, 5 Jur. (N. S.) 126; 23 J. P. 167.

With regard to the duties of constables, the 22 & 23 Vict. c. 32, s. 2, enacts that, “no county constable shall, as such constable, be required to act in any borough having a separate police establishment, except in execution of warrants of justices of such county, or by the order of his chief constable or superintendent; and in all cases of special emergency the chief constable or superintendent, when required so to do by the watch committee of any borough having a separate police

to act in all things as if the said justice of the peace were within the said county, riding, division, liberty, city, borough, or place for which he shall so act.

Justices for a county, &c. may act for it in an adjoining city or place of exclusive jurisdiction.

VI. And be it enacted, that it shall be lawful for any justice or justices of the peace acting for any county at large, or for any riding or division of such county, to act as such at any place within any city, town, or other precinct, being a county of itself, or otherwise having exclusive jurisdiction, and situated within, surrounded by, or adjoining to any such county, riding, or division respectively, and that all and every such act and acts, matters and things, to be so done by such justice or justices within such city, town, or precinct, as justice or justices for such county, riding, or division respectively, shall be as valid and effectual in law as if the same had been done within such county, riding, or division respectively, to all intents and purposes whatso-

establishment, shall have power to direct the county constables to act within such borough; and no constable of any borough having a separate police establishment shall as such constable be required to act out of his borough, except in execution of warrants of justices of such borough, or in pursuance of directions from the watch committee in case of special emergency."

Note to Section 6.—The effect of this section is to enable any justice acting for any county, riding, or division to act for it within any city, town, or other precinct within it or adjoining to it, not only in respect of indictable offences, but in respect to all proceedings within the jurisdiction of a justice of the peace. Their powers in this respect were formerly regulated by the 28 Geo. 3, c. 49, s. 4, and 1 & 2 Geo. 4, c. 63; and the proviso is the same as the proviso to those enactments. See also the proviso in the 11 & 12 Vict. c. 43, s. 6, *post*, on the same subject.

With respect to the jurisdiction of county justices in boroughs, it is enacted by the 5 & 6 Will. 4, c. 76, s. 111 (the Municipal Corporations Act), that after the 31st day of May, 1836, "the justices assigned, or hereafter to be assigned to keep the peace in and for the county in which any borough is situated, to which His Majesty shall not have granted that a separate court of quarter sessions of the peace shall be holden in and for the same, shall exercise the jurisdiction of justices of the peace in and for such borough as fully as by law they and each of them can or ought to do in and for the said county;

ever: Provided always, that nothing in this Act contained shall extend to give power to the justices of the peace for any county, riding, or division, not being also justices for such city, town, or other precinct, or not having authority as justices of the peace therein, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city, town, or precinct, in any manner whatsoever.

Not to give power to act, &c. in any matters, &c. arising within the same.

VII. And whereas doubts have arisen whether the powers given to justices by an Act passed in the session of parliament held in the second and third years of the reign of Her present Majesty, intituled "An Act for the better Administration of Justice in detached Parts of Counties," are applicable to cases of summary jurisdiction and to acts merely ministerial: Be it hereby declared and enacted, that all the acts of any justice or justices, and of any constable or officer in obedience thereto, shall be as good in relation to any detached part of any county which is surrounded in whole or in part by the county for which such justice or justices acts or act as if the same were to all intents and purposes part of the said county; and all constables and other officers of such detached part are hereby required to obey the warrants, orders, and acts of such justice or justices, and to perform their several duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty.

For removal of doubts as to powers given to justices, &c. in detached parts of counties under 2 & 3 Vict. c. 82.

VIII. And be it enacted, that in all cases where a charge or complaint for any indictable offence shall be

When charge, &c. is made, if a

and no part of any borough in and for which a separate court of quarter sessions of the peace shall be holden, shall be within the jurisdiction of the justices of any county from which such borough before the passing of this Act was exempt, any law, statute, letters patent, charter, grant, or custom to the contrary notwithstanding."

Note to Section 7.—With reference to this section, see 2 & 3 Will. 4, c. 64, 2 & 3 Vict. c. 82, and the 7 & 8 Vict. c. 61.

Note to Section 8.—Before this enactment there was no

warrant is to be issued, information, &c. on oath, to be laid before justices.

If summons to be issued instead, information, &c. not necessary to be on oath.

No objection allowed for alleged defect in form.

made before such justice or justices as aforesaid, if it be intended to issue a warrant in the first instance against the party or parties so charged, an information and complaint thereof (A.) in writing, on the oath or affirmation of the informant or of some witness or witnesses in that behalf, shall be laid before such justice or justices: Provided always, that in all cases where it is intended to issue a summons instead of a warrant in the first instance, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid, but in every such case such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same: provided also, that no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examination of the witnesses in that behalf, as hereinafter mentioned.

statute which expressly required that upon the issue of a warrant in the first instance the information should be in writing on the oath or affirmation of the informant, though it was the practice to require it to be in writing. Now it is expressly required to be in writing, and upon oath or affirmation. When it is intended to issue a summons instead of a warrant in the first instance, the Act provides that the information or complaint may be parol merely, and without any oath or affirmation. The justices, however, are not precluded from requiring that the information shall be in writing if they deem it expedient to do so.

As the information is merely for the guidance of the justice in issuing his warrant, and is in fact no portion of the proceedings so far as the defendant is concerned in his defence, any objection to the form or substance of the information is absolutely prohibited by the last proviso. As regards objections to the summons, see the proviso to section 9.

Any person may lay the information for an indictable offence; and the most usual course is to take an information in the form of a deposition, stating shortly the facts, and not an information of the offence couched in the technical language of an indictment or commitment.

IX. And be it enacted, that upon such information and complaint being so laid as aforesaid the justice or justices receiving the same may, if he or they shall think fit, issue his or their summons or warrant respectively as hereinbefore is directed to cause the person charged as aforesaid to be and appear before him or them, or any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to be dealt with according to law; and every such summons (C.) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is so directed to be and appear at a certain time and place therein mentioned before the justice who shall issue such summons, or before such other justice or justices of the peace of the same county, riding, division, liberty, city, borough, or place as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer upon the person to whom it is so directed by delivering the same to the party personally, or if he cannot conveniently be met with then by leaving the same with some person for him at his last or most usual place of abode; and the constable or other peace officer who shall have served the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of such summons; and if the person so

Upon complaint being laid, justices receiving the same may issue summons or warrant for appearance of person charged.

How summons to be served.

Note to Section 9.—The summons must be addressed to the person accused, and not, as was formerly the practice, to the constable; and it must also be served by a constable or other peace officer by delivering it personally to the accused, or if he cannot conveniently be found, by leaving it with some person for him at his last or most usual place of abode. It should not be left with any person indifferently; but should be given to the wife, servant, parent, or other person likely to give it to the accused. If at the time appointed in the summons the accused do not appear, the justice, on the constable proving the service of the summons, will issue a warrant for his apprehension.

If party summoned do not attend justice may issue a warrant to compel attendance.

No objection allowed for alleged defect in form, &c.

served shall not be and appear before the justice or justices at the time and place mentioned in such summons, in obedience to the same, then it shall be lawful for such justice or justices to issue his or their warrant (D.) for apprehending the party so summoned and bringing him before such justice or justices, or some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law : Provided always, that no objection shall be taken or allowed to any such summons or warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examinations of the witnesses in that behalf, as hereinafter mentioned ; but if any such variance shall appear to such justice or justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such justice or justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or admit him to bail, in manner hereinafter mentioned.

Warrant to apprehend parties to be under hand and seal of justice.

How warrant to be directed, and to whom.

X. And be it declared and enacted, that every warrant (B.) hereafter to be issued by any justice or justices of the peace to apprehend any person charged with any indictable offence shall be under the hand and seal or hands and seals of the justice or justices issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of

Note to Section 10.—The warrant must be under the hand and seal of the justice issuing it, and it may be directed to any constable or "other person by name ;" and in this respect no change has been made in the law. If, however, the person to whom it is addressed be not a constable or peace officer, he is not compellable to execute the warrant, and of course is not punishable if he refuses to execute it. 2 *Hawk.* c. 13, s. 27. If, however, it be directed to the constable or other peace

the parish or other district within which the same is to be executed, without naming him, or to such constable and all other constables or peace officers in the county or other district within which the justice or justices issuing such warrant has or have jurisdiction, or generally to all the constables or peace officers within such last-mentioned county or district, and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the justice or justices issuing the said warrant, or before some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer to the charge contained in the said information, and to be further dealt with according to law ; and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in force until it shall be executed ; and such warrant may be executed by apprehend-

officer, he is bound to execute it, and he may do so at any place within the jurisdiction of the justices granting the warrant ; or if the offender cannot be found therein, the warrant may be backed by a justice having jurisdiction in the place where the offender is supposed to be, and then executed (see s. 11). Usually the warrant is directed to the constable of the particular parish or district without naming him, and to all other constables and peace officers within the county or other jurisdiction of the justices issuing it, and any one of such persons may execute it in the same manner as if it were addressed by name to all or to each of them.

The warrant remains in force until it is executed ; and when executed the constable cannot discharge himself of the offender otherwise than by taking him before a magistrate. 2 *Hawk.* c. 13, s. 7. In case of fresh pursuit, that is, in case of the escape of the offender out of custody into the next adjoining county or place, and within seven miles of the border of the county, &c. within which the justices issuing the warrant have jurisdiction, the warrant may be executed without being backed as in ordinary cases, but if the offender be beyond seven miles from the border, he cannot be apprehended until the warrant is backed in the ordinary manner. This provision is of great practical advantage in securing the more speedy apprehension of criminals.

The distance of seven miles of the border of the county.

How and where warrant may be executed.

ing the offender at any place within the county, riding, division, liberty, city, borough, or place within which the justice or justices issuing the same shall have jurisdiction, or in case of fresh pursuit at any place in the next adjoining county or place, and within seven miles of the border of such first-mentioned county, riding, division, liberty, city, borough, or place without having such warrant backed as hereinafter mentioned; and in all cases where such warrant shall be directed to all constables or other peace officers within the county or other district within which the justice or justices issuing the same shall have jurisdiction, it shall be lawful for any constable, headborough, tithingman, borsholder, or other peace officer for any parish, township, hamlet, or place within such county or district to execute the said warrant within any parish, township, hamlet, or place situate within the jurisdiction for which such justice or justices

referred to in this section will be measured not by the nearest practicable road, but by a straight line from point to point on the horizontal plain, "as the crow flies." *Lake v. Butler*, 24 L. J. R. (N. S.) Q. B. 273; 19 J. P. 692. *Stokes v. Grissell*, 23 L. J. R. (N. S.) C. P. 141; 18 J. P. 378. *Reg. v. Saffron Walden*, 9 Q. B. 76; 15 L. J. R. (N. S.) M. C. 115; 10 J. P. 499. *Duignan v. Walker*, 5 Jur. (N. S.) 976.

The 29 Car. 2, c. 7, s. 6, enacts "that no person upon the Lord's day shall serve or execute any writ, process, warrant, order, judgment, or decree, (except in cases of treason, felony, or breach of the peace,) but that the serving of any such writ, process, warrant, order, judgment, or decree, shall be void to all intents and purposes whatsoever."—This statute authorizes the arrest on a Sunday of all persons who have been guilty of indictable offences; therefore a person guilty of an indictable offence may be apprehended on a Sunday, whether such offence involve an actual or only a constructive breach of the peace. *Rawlins v. Ellis*, 16 L. J. (N. S.) Exch. 5; 16 M. & W. 172.

With regard to an arrest without a warrant.—It has been held that a constable is not justified in arresting, without warrant, a person who is charged by another with having committed a felony unless the charge be reasonable. If he arrest upon an unreasonable charge he is answerable for the injury in an action at the suit of the person so arrested. *Hogg v. Ward*, 22 J. P. 626. Further on this point see note, *ante*, page 5.

The proviso to this section is the same as the proviso at the end of s. 9.

shall have acted when he or they granted such warrant, in like manner as if such warrant were directed specially to such constable by name, and notwithstanding the place in which such warrant shall be executed shall not be within the parish, township, hamlet, or place for which he shall be such constable, headborough, tithingman, borsholder, or other peace officer: Provided always, No objection allowed for alleged defect in form, &c. that no objection shall be taken or allowed to any such warrant for any defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examinations of the witnesses in that behalf, as hereinafter mentioned; but if any such variance shall appear to such justice or justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such justice or justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or to admit him to bail, in manner hereinafter mentioned.

XI. And be it enacted, that if the person against whom any such warrant shall be issued as aforesaid shall not be found within the jurisdiction of the justice or justices by whom the same shall be issued, or if he shall Regulations as to the backing of warrants.

Note to Section 11.—This section relates exclusively to the backing of warrants to be executed in some county in England to which the offender may have fled, or in which he may be. The form of indorsement in backing a warrant, is usually printed on the back of the warrant, and the magistrate backing it has only to fill in the name of the constable and the name of the county or other jurisdiction, and to sign it. After being backed, not only the constable who brings the warrant, and all constables and other peace officers of the county where it issued, but also all constables and other peace officers of the county where it is backed, may execute it. If, after being backed, the offender be not found within the jurisdiction, the constable may go to any other county or jurisdiction in which he may be supposed to be, and get it backed by a justice of that county, &c., and then execute it, and so on in any county, &c. in England, until the offender is taken. Or if the offender have gone back to the original county, &c., it may be there

escape, go into, reside, or be, or be supposed or suspected to be, in any place in England or Wales out of the jurisdiction of the justice issuing such warrant, it shall and may be lawful for any justice of the peace for the county or place into which such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of the handwriting of the justice issuing such warrant, to make an indorsement (K.) on such warrant, signed with his name, authorizing the execution of such warrant within the jurisdiction of the justice making such indorsement, and which indorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables and other peace officers of the county or place where such warrant shall be so indorsed, to execute the same in such other county or place, and to carry the person against whom such warrant shall have issued, when apprehended, before the justice and justices of the peace who first issued the said warrant, or before some other justice or justices of the peace in and for the same county, riding, division, city, liberty, borough, or place, or before some justice or justices of the county, riding,

executed notwithstanding its having been backed in other counties.

Supposing the offender to have been apprehended, the constable will take him before a justice of the county in which the offence was committed, there to be dealt with, unless the justice backing the warrant by a special indorsement shall have directed otherwise, in which case the offender must be taken before a justice of the county, &c. in which the warrant was backed. Unless, however, there are any witnesses within the jurisdiction of the justices backing the warrant, it is not usual to have such special indorsement; the fact that there are any such witnesses should therefore be communicated to the justice when the warrant is backed, in order that he may exercise his discretion in the matter.

If the backing be specially indorsed, the offender, if apprehended within the jurisdiction of a justice making the indorsement, must be taken before that justice or some other justice of the county, &c., who will then proceed in the manner directed by s. 22, *post*.

division, liberty, city, borough, or place where the offence in the said warrant mentioned appears therein to have been committed: Provided always, that if the prosecutor, *Proviso.* or any of the witnesses upon the part of the prosecution, shall then be in the county or place where such person shall have been so apprehended, the constable or other person or persons who shall have so apprehended such person may, if so directed by the justice backing such warrant, take and convey him before the justice who shall have so backed the said warrant, or before some other justice or justices of the same county or place; and the said justice or justices may thereupon take the examinations of such prosecutor or witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a justice or justices of the peace with an offence alleged to have been committed in another county or place than that in which such persons have been apprehended.

XII. And be it enacted, that if any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice of the peace, or by any judge of Her Majesty's court of Queen's Bench, or justice of oyer and terminer or gaol delivery, for any indictable offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or be supposed or suspected to be, in any county or place in that part of the United Kingdom called Ireland, or if any person against whom a warrant shall be issued in any county

English warrants may be backed in Ireland, and vice versa, in the event of parties escaping.

Note to Section 12.—This section relates to the backing of English warrants in Ireland, or the converse. The only difference between this and the case provided for by the previous section is, that the justice in Ireland backing the warrant cannot direct the offender to be taken before him or any other justice of the same county, &c. The constable on apprehending the accused in Ireland, must forthwith convey him to England, and take him before the justice who issued the warrant, or before some justice of the same county, there to be dealt with.

or place in Ireland, by any justice of the peace, or by any judge of Her Majesty's court of Queen's Bench there, or any justice of oyer and terminer or gaol delivery, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in that part of the United Kingdom called England or Wales, it shall and may be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant in manner hereinbefore mentioned, or to the like effect, and which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county or place where such warrant shall be so indorsed, to execute the said warrant in the county or place where the justice so indorsing it shall have jurisdiction, by apprehending the person against whom such warrant shall have been granted, and to convey him before the justice or justices who granted the same, or before some other justice or justices of the peace in and for the same county or place, and which said justice or justices before whom he shall be so brought, shall thereupon proceed in such manner as if the said person had been apprehended in the said last-mentioned county or place.

Warrants so
indorsed to
be valid.

English
warrants
may be
backed in
the Isles of
Man, Guern-
sey, Jersey,
Alderney, or

XIII. And be it enacted, that if any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice of the peace, or by any judge of Her Majesty's court of Queen's Bench, or justices of

Note to Section 13.—This section provides for the backing of English warrants in the Isles of Man, Guernsey, Jersey, Alderney, or Sark; and the converse in regard to each of those islands. The note to s. 12 is equally applicable to this section.

oyer and terminer or gaol delivery, for any indictable offence, shall escape, go into, reside, or be, or be supposed or suspected to be, in any of the Isles of Man, Guernsey, Jersey, Alderney, or Sark, it shall be lawful for any officer within the district into which such accused person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, who shall have jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders within such district, to indorse (K.) such warrant in the manner hereinbefore mentioned, or to the like effect; or if any person against whom any warrant, or process in the nature of a warrant, shall be issued in any of the isles aforesaid, shall escape, go into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in England or Wales, it shall be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant or process

Sark, and
vice versa.

Doubts having arisen as to the proper authority to indorse warrants in the Channel Islands, it was enacted by the 14 & 15 Vict. c. 55, s. 18, as follows:—"And whereas by section thirteen of the Act of the session holden in the eleventh and twelfth years of Her Majesty, chapter forty-two, provision is made for indorsing such warrants as therein mentioned by any officer within any of the Isles of Guernsey, Jersey, Alderney, and Sark, who shall have jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders, and other provisions are made in the same Act, and in the Act of the same year of Her Majesty, chapter forty-three, by reference to the enactment of the said session, and doubts have arisen by whom warrants should be indorsed in the said isles pursuant to the said provisions: Be it enacted, that the bailiffs of Jersey and Guernsey respectively, or in their respective absence the lieutenant bailiffs of such islands respectively, within their respective bailiwicks or jurisdictions, the Judge of Alderney, or in his absence any jurat of such island within such island, and the Seneschal of Sark, or in his absence his deputy within such island, shall have all such power and authority to indorse warrants as by the said Acts respectively is given or expressed or intended to be given to any officer within any of such isles having juris-

Warrant so
indorsed to
be valid.

in manner hereinbefore mentioned, and every such warrant or process, so indorsed, shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same respectively was originally directed, and also to all constables and peace officers in the county, district, or jurisdiction within which such warrant or process shall be so indorsed, to execute the same within the county, district, or place where the justice or officer indorsing the same has jurisdiction, and to convey such offender, when apprehended, into the county or district wherein the justice or person who issued such warrant or process shall have jurisdiction, and carry him before such justice or person, or before some other justice or person within the same county or district who shall have jurisdiction to commit such offender to prison for trial, and such justice or person may thereupon proceed in such and the same manner as if the said offender had been apprehended within his jurisdiction.

English or
Irish war-
rants may
be backed in
Scotland.

XIV. And be it declared and enacted, that if any person against whom a warrant shall be issued by any justice of the peace for any county or place within England or Wales or Ireland, or by any judge of Her Majesty's court of Queen's Bench or justice of oyer and terminer or gaol delivery in England or Ireland, for any crime or offence against the laws of those parts respec-

diction to issue any warrant or process in the nature of a warrant for the apprehension of offenders, and for such purpose shall have authority to administer an oath, and all the provisions of the said Acts shall be construed as if the officers authorized to indorse warrants by this enactment had been so authorized by the said section of the first-mentioned Act of the eleventh and twelfth years of Her Majesty."

Further, with respect to this section, see 11 & 12 Vict. c. 43, ss. 3 & 37, and notes thereon.

Note to Section 14.—This section provides for the backing of English warrants and also for the backing of Irish warrants in Scotland. As regards the former, the observations in the note to s. 12 apply also to this section.

tively of the United Kingdom of Great Britain and Ireland, shall escape, go into, reside, or be, or be supposed or suspected to be, in any place in that part of the said United Kingdom called Scotland, it shall be lawful for the sheriff or steward depute or substitute, or any justice of the peace of the county or place where such person or persons shall go into, reside, or be, or be supposed or suspected to be, to indorse (K.) the said warrant in manner hereinbefore mentioned, or to the like effect, which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriffs officers, stewards officers, constables, and other peace officers of the county or place where such warrant shall be so indorsed, to execute the same within the county or place where it shall have been so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in England, Wales, or Ireland, where the justice or justices who first issued the said warrant shall have jurisdiction in that behalf, and to carry him before such justice or justices or before any other justice or justices of the peace of and for the same county or place, to be there dealt with according to law, and which said justice or justices are hereby authorized and required thereupon to proceed in such and the same manner as if the said offender had been apprehended within his or their jurisdiction.

Warrant so
indorsed to
be valid.

XV. And be it enacted, that if any person against whom a warrant shall be issued by the lord justice general, lord chief justice clerk, or any of the lords commissioners of justiciary, or by any sheriff or steward depute or substitute, or justice of the peace, of that part of the United Kingdom of Great Britain and Ireland called Scotland, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or shall be supposed or suspected

Scotch war-
rants may
be backed in
England or
Ireland.

Warrants so
indorsed to
be valid.

to be, in any county or place in England or in Ireland, it shall be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or shall be supposed or suspected to be, to indorse (K.) the said warrant in manner hereinbefore mentioned, and which said warrant so indorsed shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same was originally directed, and also to all constables and other peace officers of the county or place where the justice so indorsing such warrant shall have jurisdiction, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in Scotland next adjoining to that part of the United Kingdom called England, and carry him before the sheriff or steward depute or substitute, or one of the justices of the peace, of such county or place, and which said sheriff, steward depute or substitute, or justice of the peace, is hereby authorized and required thereupon to proceed in such and the same manner, according to the rules and practice of the law of Scotland, as if the said offender had been apprehended within such county or place in Scotland last aforesaid.

Power to
justices to
summon
witnesses
to attend and
give evi-
dence.

XVI. And be it enacted, that if it shall be made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence for the prosecution, and will not voluntarily

Note to Section 16.—This section provides for four possible circumstances—L. 1, for compelling by summons the attendance of an unwilling witness; L. 2, for the apprehension of such witness if he do not obey the summons; L. 3, for the bringing of such witness before the justices to be examined on a warrant in the first instance without a previous summons; L. 4, for the commitment of a witness who refuses to be examined or to be sworn without offering any just excusal.

appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such justice may and is hereby required to issue his summons (L. 1) to such person, under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons, before the said justice, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having

If summons not obeyed, warrant may be issued to compel attendance.

The justices can summon a witness only when such witness is within their jurisdiction. When the witness is beyond their jurisdiction, and will not attend without a summons, a Crown office subpoena should be obtained. But if a warrant be issued (L. 2 and L. 3), the witness may be taken under it out of the jurisdiction of the justices, on its being backed, in the same manner as an ordinary warrant to apprehend. See ss. 11-15.

L. 4 applies to a witness who attends upon a summons or a warrant; but apparently makes no provision for the possible case of a witness who is present without either a summons or a warrant. It would seem however that the justices have power in such a case to commit on a refusal to give evidence or to be sworn. As to a witness refusing to enter into a recognizance to attend at the trial and give evidence, see s. 20, *post*.

A summons for the attendance of a witness is served personally, or, if that cannot be effected, by being left with some person, as his wife or servant, or other adult member of his family, at his last known place of abode; and a witness cannot refuse to attend on being summoned or subpoenaed until his expenses are paid. *Rex v. James*, 1 C. & P. 322.

By s. 9 of the 16 & 17 Vict. c. 30, the secretary of state or any judge of the Queen's Bench, Common Pleas, or Exchequer, upon application by affidavit, may issue a warrant or order for bringing up any prisoner confined in any gaol or under any sentence, or under commitment for trial or otherwise (except under process in any civil action, suit, or proceeding), before any court or justice, to be examined as a witness in any cause or matter, civil or criminal.

In certain cases warrant may be issued in the first instance.

Persons appearing on summons, &c. refusing to be examined may be committed.

been served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode), it shall be lawful for the justice or justices before whom such person should have appeared to issue a warrant (L. 2) under his or their hands and seals, to bring and have such person at a time and place to be therein mentioned before the justice who issued the said summons, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify as aforesaid, and which said warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the justice who shall have issued the same; or if such justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled so to do, then, instead of issuing such summons, it shall be lawful for him to issue his warrant (L. 3) in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last-mentioned justice or justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or, having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having there jurisdiction, may by warrant (L. 4) under his hand and seal commit the person so refusing to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

XVII. And be it enacted, that in all cases where any person shall appear or be brought before any justice or justices of the peace charged with any indictable offence,

As to the
examination
of witnesses.

Note to Section 17.—Under this section the mode of proceeding in the examination of witnesses is the same in all indictable offences, whether they be treason, felony, or misdemeanors, and wherever they may be committed, whether in England, on the high seas, or beyond the seas. The examinations must be taken in the presence of the prisoner after the witnesses have been sworn or have made an affirmation,—be reduced into writing, and read over to the witness, and be signed by him and also by the justice before whom they were taken; and no question or answer can be inserted on the depositions unless it be asked and the answer given in the presence of the prisoner.

It would be always desirable when a person of weak intellect is examined before a magistrate in a case of felony, that the magistrate's clerk should take down in the depositions the questions put by the magistrate and the answers given by the witness, as to the witness's capacity to take an oath. *Reg. v. Painter*, 2 Car. & K. 319, per Wilde, C. J. See also *Reg. v. Johnson*, 2 Car. & K. 355.

The deposition of each witness should have a separate caption, showing on what charge it was taken, otherwise it will be inadmissible in evidence. *Reg. v. Newton*, 1 F. & F. 641.

The prisoner has a right to compare the written depositions with the verbal statements of the witnesses; and therefore in *Reg. v. Christopher*, 19 L. J. R. (N.S.) 103, M. C.; 14 J. P. 83, in which the prisoner being charged with felony before a magistrate, minutes of the examination and of the examination of the witnesses were taken in writing under the inspection of the magistrate,—these minutes were taken to the magistrate's office to a clerk, who proceeded to draw up the depositions,—the witnesses attended at the office, and the clerk, in order to make the depositions complete, put questions to the witnesses and inserted their answers in the depositions, neither the magistrate nor the prisoner being present,—the depositions having been so written out the witnesses again appeared before the magistrate, and in the presence of the prisoner were resworn, and the depositions were read over to them, and a full opportunity was given for examination before the depositions were signed by the witnesses,—it was held that the counsel for the prisoner was entitled without putting in the depositions to ask a witness whether he had made a certain statement to the clerk in answer to a question put by the latter in the course of writing the depositions, although, according to the evidence, the answer would have appeared on the depositions.

The word "trial," as used in the sentence "if upon the trial

whether committed in England or Wales, or upon the high seas, or on land beyond the sea, or whether such person appear voluntarily upon summons or have been apprehended, with or without warrant, or be in custody for the same or any other offence, such justice or justices, before he or they shall commit such accused person to prison for trial, or before he or they shall admit him

of the person so accused," coupled with the word "prosecution" in the latter part of the sentence, shows that it was intended that the depositions might be read as evidence before the grand jury; and therefore the deposition of a witness who is too ill to travel to attend at the trial of a prisoner may be read as evidence before the grand jury as well as before the petit jury, by virtue of this section. *Reg. v. Clements*, 20 L. J. R. (N. S.) 193, M. C.; 15 J. P. 338.

If the deposition of a witness on a charge for an indictable offence has been regularly taken before a magistrate, and at the time of trial the witness is dead, or so ill as not to be able to travel, the deposition may be read as evidence against the prisoner. So also if it be proved that the witness is kept away by the prisoner's procurement. Such deposition however is not admissible on the ground merely that the prosecutor, after using every possible endeavour, cannot find the witness. Again, if procurement of the absence be shown, and there are several prisoners, the deposition is evidence against those only who are proved to have procured the absence. *Reg. v. Scarfe, Smith and Reoke*, 17 A. & E. 238; 20 L. J. R. (N. S.) M. C. 229; 2 Den. C. C. 281; 15 J. P. 581.

This section merely specifies two cases in which the depositions may be admitted in evidence without the attendance of the witnesses; and the case of a witness abroad is not one of those cases. Therefore a deposition taken before a magistrate on a charge of felony against a prisoner cannot be read in evidence against him on his trial, merely because the witness is absent and resident in a foreign country. *Reg. v. Austin*, 25 L. J. R. (N. S.), M. C. 48; 20 J. P. 54; 1 Dears. & Bell, C. C. 612. But per Coleridge, J., the statute is not to be taken as limiting the admissibility of depositions to the cases mentioned in it, for it merely specifies two cases. There may be many other cases. *Id.*

The deposition of a witness taken on one charge may be used in an indictment for another, as in *Reg. v. Beeston*, 24 L. J. R., M. C. (N. S.), 5, where the prisoner was charged before a magistrate with wounding A. with intent, &c. and A.'s deposition was taken; A. afterwards died of the wound, and the prisoner was indicted for his murder; when it was held that on the trial for the murder the deposition of A.

to bail, shall, in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (M.) on oath

might be read in evidence, as, although it was not on the same technical charge, it was taken in the same case, and the prisoner had had a full opportunity of cross-examination.

As to the deposition of an absent witness who is ill, see *Reg. v. Mark Cockburn*, 3 Jur. (N. S.) 447; 26 L. J. R. (N. S.) M. C. 136; 21 J. P. 358; 1 Dears. & Bell, C. C. 203; 7 Cox, C. C. 265. In that case it was held that the deposition of a witness who has an attack of paralysis, and is unable to hear or speak, or give evidence, might be received, though it would not endanger his life to travel or to be brought into the court.

It is the magistrate's duty when the deposition has been made and signed by the witness, to put his signature to it, and to do so as each deposition is made. Per Lord Denman, C. J. in *ex parte Joshua Fletcher*, 13 L. J. (N. S.) M. C. 70; 8 J. P. 854.

With regard to the examination of parties to any proceeding before the justices, it is enacted by the Act to amend the law of evidence, 14 & 15 Vict. c. 99, s. 2, that, "on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties thereto, and the person in whose behalf any such suit, action, or other proceeding may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *viva voce* or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said suit, action, or other proceeding. But (s. 3) nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband." An information under 1 & 2 Will. 4, c. 32, s. 25, for unlawfully using snares for taking game is a criminal proceeding for an offence punishable on summary conviction within s. 3 of the 14 & 15 Vict. c. 99, and therefore the party charged is not rendered a competent witness by that statute. *Cattell, app., Ireson, resp.* 4 Jur. (N. S.) 560; 22 J. P. 672.

Justice to
administer
oath or
affirmation.

Depositions
of persons
who have
died, or who
are absent,
may, in cer-
tain cases,
be read in
evidence.

or affirmation of those who shall know the facts and circumstances of the case, and shall put the same into writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the justice or justices taking the same; and the justice or justices before whom any such witness shall appear to be examined as aforesaid shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such justice or justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid it shall be proved, by the oath or affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or so ill as not to be able to travel, and if also it be proved that such deposition was taken in the presence of the person so accused, and that he or his counsel or attorney had a full opportunity of cross-examining the witness, then, if such deposition purport to be signed by the justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution, without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the justice purporting to sign the same.

After exa-
mination of
the accused,

XVIII. And be it enacted, that after the examinations of all the witnesses on the part of the prosecution as

Note to Section 18.—It was always previous to this statute the custom to make a statement to the prisoner to the effect of the first clause of this section before asking him if he wished to say anything in answer to the charge against him; but it was never before made the subject of legislative enactment. The statement is made to every prisoner, and if it be not made any statement which he may make in answer to the charge cannot be entered on the depositions and received in evidence against him. The last proviso to the section however seems to override the whole section, and to render admissible in evidence against a prisoner any statement made by him either before a magistrate or on any other occasion, which independently of the statute would by law be admissible as

aforesaid shall have been completed, the justice of the peace or one of the justices by or before whom such examination shall have been so completed as aforesaid shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions

justice to
read deposi-
tions taken
against him,
and caution
him as to
any state-

evidence against him. *Reg. v. Sansome*, 19 L. J. R. (N. S.) 143, M. C.; 14 J. P. 273. In all cases where the prisoner's statement appears to have been taken down by the magistrate after the caution has been given, and in the manner directed by the statute, and there is no evidence that any threat or promise has been held out to induce a confession from the prisoner, the depositions may without further proof be read in evidence against the prisoner, although the magistrate did not comply with the direction in the first proviso, and give the prisoner to understand before he made his statement that he had no hope from any promise of favour, &c. *Id.*

The proviso which directs the justice before whom a prisoner shall make any statement to state to him and give him clearly to understand that he has nothing to hope from any promise of favour, and nothing to fear from any threat, &c., was introduced because any confession which a prisoner might be induced by any promise or threat to make, could not be given in evidence against him. *Reg. v. Kingston*, 4 Car. & P. 387. *Reg. v. Dunn*, 4 Car. & P. 543. *Reg. v. Parratt*, 4 Car. & P. 570. *Reg. v. Mills*, 6 Car. & P. 146. It has been holden in *Reg. v. Sansome*, *supra*, that a statement made by the prisoner, amounting to a confession, after the ordinary caution mentioned in the first part of this section had been given to him, could be received in evidence against him because the latter caution was not a condition precedent to the admissibility of a confession before the committing magistrate, and was necessary only where there had been a previous threat or promise. If given it has the effect of rendering the confession admissible in evidence, notwithstanding such previous threat or promise; and if not given the case remains as at common law, and the confession is admissible in evidence unless the person were influenced by some previous threat or promise. So also in *Reg. v. Bond*, 19 L. J. R. 138 (N. S.), M. C., where, after taking the examinations of the witnesses on a charge of felony, the magistrate cautioned the prisoner in the language prescribed by this section, but did not, as the proviso requires, tell him that he had nothing to hope from any promise of favour or to fear from any threat. The prisoner then made a statement, which was taken down, but was not signed by him or by the magistrate. On his being again brought before the magistrate after a remand some questions were put to the witnesses by his attorney, who then objected to the statement being treated

ment he may make; taken against him and shall say to him these words, or words to the like effect: "*Having heard the evidence, do you wish to say anything in answer to the charge?*"

as the prisoner's statement, as an addition had been made to the evidence, and the prisoner being then asked if he wished to make any statement declined doing so: it was held that the prisoner's statement was admissible in evidence against him at the trial. So also in *Reg. v. Baldry*, 21 L. J. R. (N. S.) M. C. 190; 16 J. P. 276, in which a policeman who had a prisoner in custody said to him, "You need not say anything to criminate yourself; what you do say will be taken down, and used as evidence against you." This was held not to amount to a promise or threat so as to render a subsequent confession inadmissible. See also *Reg. v. Hannah Moore*, 21 L. J. R. (N. S.) 199; 16 J. P. 744, in which a maid servant made a confession on the inducement of her mistress, and it was received in evidence against her, because the offence charged (child murder) was not in any way connected with the management of the house, and the mistress could not be considered as a person having authority over the prosecution. In *Reg. v. Jane Sleeman*, 23 L. J. R. (N. S.), M. C. 19; 17 J. P. 776, the same principle was upheld. Whether an exhortation to tell the truth is a mere exhortation to confess, is a question for the judge at the trial, per Erle, J., in *Reg. v. Garner*, 18 L. J. R. (N. S.), M. C. 1; 12 J. P. 758.

This section does not render inadmissible in evidence on the trial a statement voluntarily made by the prisoner before a magistrate when brought up on an application for a remand. *Reg. v. Stripp*, 25 L. J. R. (N. S.), M. C. 109; 1 Dears. C. C. 648; 20 J. P. 279. The caution and warning prescribed by the statute are intended to apply to the final proceeding only, when after all the witnesses have been examined the prisoner is asked whether he has anything to say in answer to the charge, and the statute does not exclude any declaration or voluntary statement made by the person accused, before, during, or after the inquiry.

A prisoner's statement before the magistrates cannot when tendered generally be received as evidence on his behalf; it is evidence against him, but not for him. *Reg. v. Haines*, 1 F. & F. 86.

With reference to s. 18 and the preceding section the following opinion, which is understood to have been given on a case submitted by the Leeds justices to the then attorney-general, Sir A. E. Cockburn, (now C. J.) and Crompton, (now Mr. Justice Crompton,) Ellis and Hall, may be here inserted from 15 J. P. 463.

"1. The language of s. 17 admits of the construction, and the interests of justice require, that magistrates should hear and

you are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial ;” and whatever the prisoner shall then say in answer thereto shall be taken down in writing (N.), and read over to him, and shall be signed by the said justice or justices, and kept with the depositions of the witnesses, and shall be transmitted with them as herein-after mentioned ; and afterwards upon the trial of the said accused person the same may, if necessary, be given in evidence against him, without further proof thereof ; unless it shall be proved that the justice or justices purporting to sign the same did not in fact sign the same : Provided always, that the said justice or justices before such accused person shall make any statement shall state to him, and give him clearly to understand, that

and inform him that he has nothing to hope or fear from

examine such of the witnesses offered by a prisoner as appear (in the language of the statute) to know the facts and circumstances of the case.

“2. The time for calling on the prisoner to make his statement is when the examination of the witnesses for the prosecution is completed, and this will in general be the most rational and convenient time for taking the examinations of the prisoner’s witnesses, which ought to be taken *vivâ voce* and reduced to writing, and signed and certified in the same way as examinations taken on the part of the prosecution.

“3. The examinations of the prisoner’s witnesses should be transmitted to the sessions or assizes, with the examinations of witnesses for the prosecution.

“4. It is not the duty of the magistrates to bind over the prisoner’s witnesses, with the exception of any who, though adduced for the prisoner, appear to be material for the prosecution.

“5. It is incumbent on the prosecutor to have in readiness at the trial all who have been bound over as witnesses for the prosecution.

“6. The costs of the prisoner’s witnesses (*i. e.* those of them not bound over for the prosecution) cannot be included in the examining magistrate’s certificate of expenses ;” and with regard to the admissibility of the depositions of witnesses deceased or disabled by illness from attending at the trial, the inclination of the learned counsels’ opinion was that such admissibility is confined to the depositions of witnesses examined against the prisoner.

either promise or threat.

he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial notwithstanding such promise or threat: Provided nevertheless, that nothing herein enacted or contained shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time, which by law would be admissible as evidence against such person.

Place where examination taken not to be deemed an open court, and no person to remain without consent.

XIX. And be it declared and enacted, that the room or building in which such justice or justices shall take such examinations and statement as aforesaid shall not be deemed an open court for that purpose; and it shall be lawful for such justice or justices, in his or their discretion, to order that no person shall have access to or be or remain in such room or building without the consent or permission of such justice or justices, if it appear to him or them that the ends of justice will be best answered by so doing.

Note to Section 19.—This section only applies to the taking of the depositions, &c. against a prisoner, upon which occasion the justice may, if he deem it necessary to secure the ends of justice, exclude all strangers from the room. A justice of the peace acting under this statute, does not act as a court of justice to determine the guilt or innocence of a defendant, but as an officer deputed by the law to enter upon a preliminary inquiry whether the defendant ought to be committed for trial or not. Therefore a prisoner when examined before a magistrate on a charge of felony, is not entitled as of right to have a person skilled in the law present as an advocate. It is in the discretion of the magistrates in each particular case whether they will admit or exclude an advocate for the accused. *Cox v. Coleridge*, 2 D. & R. 86; 1 B. & C. 37. *Rex v. Borrow*, 3 B. & A. 432. *Rex v. Staffordshire, JJ.*, 1 Chit. 218. *Collier v. Hicks*, 2 B. & Ad. 663. Upon other occasions, when the justice acts judicially, as in hearing a charge for an offence punishable upon summary conviction, he does so in public, and in open court, to which every person has a right to resort. See 11 & 12 Vict. c. 43, s. 12.

XX, And be it enacted, that it shall be lawful for the justice or justices before whom any such witness shall be examined as aforesaid to bind by recognizance (O. 1) the prosecutor and every such witness to appear at the next court of oyer and terminer or gaol delivery, or

Power to justice to bind over the prosecutors and witnesses by recognizance.

Note to Section 20.—The prosecutor and witnesses are to be bound by recognizance to appear at the next court of oyer and terminer or gaol delivery, or superior court of a county palatine, or court of general or quarter sessions of the peace at which the accused is to be tried, then and there to prosecute, &c. In preparing the recognizance, the court at which the prisoner is to be tried must therefore be borne in mind, and the recognizance be filled up in accordance therewith. By the 5 & 6 Vict. c. 38, s. 1, the sessions have no jurisdiction to try for any of the offences undermentioned, namely:—Abduction of women or girls; bankrupts,—offences against any provision of the laws relating to bankrupts and insolvents; bigamy, and offences against the law relating to marriage; blasphemy, and offences against religion; bribery; concealing or endeavouring to conceal the birth of a child; conspiracy or combination,—except conspiracies or combinations to commit an offence of which the sessions have jurisdiction, when committed by one person; deeds, &c.,—stealing or fraudulently taking or injuring or destroying any document or written instrument, being or containing evidence of the title to any real estate, or any interest in lands, tenements or hereditaments; felony, punishable with death; felony, which (when committed by a person not previously convicted of felony) is punishable with transportation for life; fire, setting, to crops of corn, grain or pulse, or to any part of a wood, coppice or plantation of trees, or to any heath, gorze, furze or fern; libel, blasphemous, seditious or defamatory,—composing, printing, or publishing; misprision of treason; murder; oaths, unlawful, administering or taking; parliament, offences against either house of; perjury and subornation of perjury; also, making or suborning any other person to make a false oath, affirmation or declaration, punishable as perjury or as a misdemeanor; præmunire, offences subject to the penalty of; queen's title, prerogative, person, or government, offences against; records, or documents belonging to any court of law or equity, or relating to any proceeding therein,—stealing, or fraudulently taking, or injuring or destroying; treason; wills or testamentary papers, stealing, or fraudulently destroying or concealing.

The 4 & 5 Will. 4, c. 36, which established the Central Criminal Court, previously enacted (s. 17), that the justices of the peace acting in and for the cities of London and Westmin-

superior court of a county palatine, or court of general or quarter sessions of the peace, at which the accused is to be tried, then and there to prosecute, or to prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said recognizance shall particularly specify the profession, art, mystery, or trade of every such person entering into or acknowledg-

ster, the liberty of the tower of London, the borough of Southwark, and the counties of Middlesex, Essex, Kent, and Surrey, shall not, at their respective general or quarter sessions of the peace, or at any adjournment thereof, try any person or persons charged with any capital offence, or with any of the following offences committed or alleged to be committed within the limits of this Act:—Abduction; abortion,—administering drugs or other things, or doing anything, with intent to cause or procure; assault with intent to commit a felony; bankrupts not surrendering, or concealing their effects; breaking of buildings within the curtilage of a dwelling-house; breaking down bridges, or banks of rivers; breaking of shops, warehouses or counting houses; capital offences; cattle, stealing; cattle, wounding; coin, offences relating to, in stat. 2 Will. 4, c. 34; conspiracy; embezzlement; forgery, and the uttering of forged instruments, and the other offences enumerated in the Forgery Act, 1 Will. 4, c. 66; horse-stealing; house-breaking; larceny, above 5*l.*, in a dwelling-house; larceny of goods in the progress of manufacture; larceny of goods on navigable rivers or canals; larceny by clerks and servants; larceny after a previous conviction; manslaughter; manufacture, goods in progress of, stealing or destroying; perjury; personating any officer, seaman, or other person, in order to receive any wages, pay, allowance, or prize money due or supposed to be due; personating any out-pensioner of Greenwich hospital, in order to receive any out-pension allowance due or supposed to be due; poison, administering or attempting to administer, with intent to kill, or to do some grievous bodily harm; receivers of stolen goods; rewards, taking, for helping to stolen goods; sheep, stealing; sheep, killing, with intent to steal the carcases; ships or vessels, destroying or damaging: threatening letters, sending, and using threats to extort money; accessories before or after the fact to any of these offences. An accessory before the fact is one who, being absent at the time of the felony committed, doth let, procure, counsel, command or abet another to commit a felony. An accessory after the fact is one who, knowing a felony to have been committed by another, receives, relieves, comforts or assists the felon, whether he be a principal or accessory before the fact merely. 1 *Hale*, 616.

ing the same, together with his christian and surname, and the parish, township, or place of his residence, and if his residence be in a city, town, or borough, the recognizance shall also particularly specify the name of the street, and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof or a lodger therein; and the said recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the justice or justices before whom the same shall be acknowledged, and a notice (O. 2) thereof, signed by the said justice or justices, shall at the same time be given to the person bound thereby; and the several recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the recognizance of bail (if any) in every such case, shall be delivered by the said justice or justices, or he or they shall cause the same to be delivered, to the proper officer of the court in which the trial is to be had, before or at the opening of the said court on the first day of the sitting thereof, or at such other time as the judge, recorder, or justice who is to preside in such court at the said trial shall order and appoint: Provided always, that if any such witness shall refuse to enter into or acknowledge such recognizance as aforesaid it shall be lawful for such justice or justices of the peace by his or their warrant (P.1) to commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the mean time such witness shall duly enter into such recognizance as aforesaid before some one justice of the peace for the county, riding, division, liberty, city, borough, or place

Recogni-
zance, depo-
sitions, &c.
to be trans-
mitted to the
court in
which the
trial is to be
had.

Witnesses
refusing to
enter into
recogni-
zances, may
be com-
mitted.

Section 16 of the 11 & 12 Vict. c. 42, relates to a witness refusing to be sworn or to give evidence before the justices; section 17, to his refusal to be bound over to give evidence at the trial; and the distinction in the two sections should be carefully borne in mind.

in which such gaol or house of correction shall be situate : Provided nevertheless, that if afterwards, from want of sufficient evidence in that behalf or other cause, the justice or justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for such justice or justices, or any other justice or justices of the same county, riding, division, liberty, city, borough, or place, by his or their order (P. 2) in that behalf, to order and direct the keeper of such common gaol or house of correction where such witness shall be so in custody to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly.

Power to justice to remand the accused from time to time, not exceeding eight days, by warrant.

XXI. And be it enacted, that if from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the justice or justices before whom the accused shall appear or be brought, by his or their warrant (Q. 1) from time to time to remand the party accused for such time as by such justice or justices in their discretion shall be deemed reasonable, not exceeding eight clear

Note to Section 21.—Under this section the justices may, in their discretion, remand the accused for any period not exceeding eight days, and at the expiration of that time may again remand him, and so on from time to time as long as a remand may be considered necessary. Or, instead of detaining the accused in custody, the justice may discharge him upon a recognizance, with or without sureties, conditioned to appear at an appointed time and place for the continuance of the examination.

The accused, on being remanded, may be taken to the common gaol or house of correction or other prison, lock-up house, or place of security in the county, &c., for which the justice shall be acting, as may be thought convenient; or, if the remand be for a period not exceeding three days, the accused may be directed to be detained in the custody of a constable to be named by the justice or justices in that behalf.

days, to the common gaol or house of correction, or other prison, lock-up house, or place of security in the county, riding, division, liberty, city, borough, or place for which such justice or justices shall then be acting; or if the remand be for a time not exceeding three clear days, it shall be lawful for such justice or justices verbally to order the constable or other person in whose custody such party accused may then be, or any other constable or person to be named by the said justice or justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other justice or justices as shall be there acting at the time appointed for continuing such examination: Provided always, that any such justice or justices may order such accused party to be brought before him or them, or before any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, at any time before the expiration of the time for which such accused party shall be so remanded, and the gaoler or officer in whose custody he shall then be shall duly obey such order: Provided also, that instead of detaining the accused party in custody during the period for which he shall be so remanded, any one justice of the peace before whom such accused party shall so appear or be brought as aforesaid may discharge him, upon his entering into a recognizance (Q. 2, 3), with or without a surety or sureties, at the discretion of such justice, conditioned for his appearance at the time and place appointed for the continuance of such examination; and if such accused party shall not afterwards appear at the time and place mentioned in such recognizance, then the said justice or any other justice of the peace who may then and there be present, upon certifying (Q. 4) on the back of the recognizance the non-appearance of such accused party, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall

If remand be for three days only, by verbal order.

Party accused may be admitted to bail, on the examination being adjourned.

If party does not appear upon recognizance, justice may transmit the same to the clerk of the peace.

be deemed sufficient *prima facie* evidence of such non-appearance of the said accused party.

If a person be apprehended in one county on charge of an offence committed in another, he may be examined in the former;

XXII. And whereas it often happens that a person is charged before a justice of the peace with an offence alleged to have been committed in another county or place than that in which such person has been apprehended or in which such justice has jurisdiction, and it is necessary to make provision as to the manner of taking the examinations of the witnesses, and of committing the party accused, or admitting him to bail, in such a case: Be it therefore enacted, that whenever a person shall appear or shall be brought before a justice or justices of the peace in the county, riding, division, liberty, city, borough, or place wherein such justice or justices shall have jurisdiction, charged with an offence alleged to have been committed by him in any county or place within England or Wales wherein such justice or justices shall not have jurisdiction, it shall be lawful for such justice or justices and he and they are hereby required to examine such witnesses, and receive such evidence in proof of such charge as shall be produced before him or them, within his or their jurisdiction; and if in his or their opinion such testimony and evidence shall be sufficient proof of the charge made against such accused party, such justice or justices shall thereupon

and if evidence be deemed sufficient

Note to Section 22.—When a prisoner is apprehended on a backed warrant (as to which see section 11 and note thereon), and taken before a justice of the county, &c. within which the warrant was backed, such justice, if the evidence be sufficient proof of the charge, shall thereupon commit (T. 1) the prisoner to the common gaol, &c. of the county, &c. where the offence is alleged to have been committed, or may admit him to bail, to await his trial. If, on the other hand, the evidence be not sufficient to prove the charge, the justice may bind over the witnesses whom he may have examined, and order (R. 1) the accused to be taken before some justice or justices of the county, &c. where the offence was committed.

The costs of the constable in taking the prisoner before the justice of the county where the offence was committed, is provided for by the latter part of the section. As to the constable's costs in ordinary cases, see s. 25, *post*.

commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where the offence is alleged to have been committed, or shall admit him to bail, as hereinafter mentioned, and shall bind over the prosecutor (if he have appeared before him or them) and the witnesses by recognizances accordingly, as is hereinbefore mentioned; but if such testimony and evidence shall not in the opinion of such justice or justices be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such justice or justices shall bind over such witnesses as he shall have examined, by recognizance, to give evidence, as hereinbefore is mentioned, and such justice or justices shall, by warrant (R. 1), under his or their hand and seal or hands and seals, order such accused party to be taken before some justice or justices of the peace in and for the county, riding, division, liberty, city, borough, or place where and near unto the place where the offence is alleged to have been committed, and shall at the same time deliver the information and complaint, and also the depositions and recognizances so taken by him or them, to the constable who shall have the execution of such last-mentioned warrant, to be by him delivered to the justice or justices before whom he shall take the accused in obedience to the said warrant, and which said depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last-mentioned justice or justices, and shall, together with such depositions and recognizances as such last-mentioned justice or justices shall take in the matter of such charge against the said accused party, be transmitted to the clerk of the court where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the justice or justices last aforesaid by virtue of the said

may be
committed to
prison.

If insuffi-
cient, to be
brought
before some
justice in
the latter
county.

As to pay-
ment of ex-
penses of

conveying
the accused
into the
proper
county, &c.

last-mentioned warrant, the constable or other person or persons to whom the said warrant shall have been directed, and who shall have conveyed such accused party before such last-mentioned justice or justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said justice or justices; and upon the said constable or other person producing the said accused party before such justice or justices, and delivering him into the custody of such person as the said justice or justices shall direct or name in that behalf, and upon the said constable delivering to the said justice or justices the warrant, information (if any), depositions, and recognizances aforesaid, and proving by oath the handwriting of the justice or justices who shall have subscribed the same, such justice or justices to whom the said accused party is so produced shall thereupon forthwith ascertain the sum which ought to be paid to such constable or other person for conveying such accused party and taking him before such justice or justices, as also his reasonable costs and expenses of returning, and thereupon such justice or justices shall make an order (R. 2) upon the treasurer of the county, riding, division, or liberty, city, borough, or place, or if such city, borough, or place shall be contributory to the county rate of any county, riding, division, or liberty, then upon the treasurer of such county, riding, division, or liberty respectively to which it is contributory, for payment to such constable or other person of the sum so ascertained to be payable to him in that behalf, and the said treasurer, upon such order being produced to him, shall pay the amount to the said constable or other person producing the same, or to any person who shall present the same to him for payment: Provided always, that if such last-mentioned justice or justices shall not think the evidence against such accused party sufficient to put him upon his trial, and shall discharge him without holding him to bail, every such recognizance so taken by the said first-mentioned justice or justices as aforesaid shall be null and void.

XXIII. And be it enacted, that where any person shall appear or be brought before a justice of the peace charged with any felony, or with any assault with intent to commit any felony, or with any attempt to commit any felony, or with obtaining or attempting to obtain property by false pretences, or with a misdemeanor in receiving property stolen, or obtained by false pre-

Power to
justice to
admit to bail
persons
charged
with felony
and certain
misdemeanors.

Note to Section 23.—The statute enumerates the following offences in which justices may in their discretion take bail, namely:—All felonies; assault with intent to commit a felony; attempt to commit a felony; obtaining or attempting to obtain property by false pretences; misdemeanor in receiving property stolen or obtained by false pretences; perjury or subornation of perjury; concealing the birth of a child by secret burying or otherwise; wilful or indecent exposure of the person; riot; assault in pursuance of a conspiracy to raise wages; assault upon a peace officer in the execution of his duty, or upon any person acting in his aid; neglect or breach of duty as a peace officer; any misdemeanor for the prosecution of which the costs may be allowed out of the county rate. For all other offences, except treason, being indictable misdemeanors, the justices must accept bail, if sufficient sureties be tendered.

If the justices refuse bail in any case where by law it ought to be taken, they are guilty of a misdemeanor (2 *Hawk.* c. 15, s. 13); and they may also be punished if they admit to bail a person who is not bailable (2 *Hawk.* c. 15, s. 7), and may be fined for taking insufficient bail, if the accused do not surrender according to the condition of the recognizance. *Id.* s. 16. On the other hand excessive bail is against the policy of the law, and ought not to be taken. 1 *W. & M. sess.* 2, c. 2.

If the justices refuse to take bail, the prisoner may apply to the court of Queen's Bench; and the judges there may, on a consideration of the case as disclosed by the depositions taken before the justices, either award a *habeas corpus* to bring him into court to be bailed (*Rex v. Grieffenburgh*, 4 *Burr.* 2179; *Rex v. Homer*, *Cald.* 295; *Rex v. Marks*, 5 *East*, 157); or if the person be too poor to bear the expense of being brought up, they will grant a rule to show cause why he should not be bailed by a justice in the county. *Rex v. Jones*, 1 *B. & A.* 209; *Rex v. Massey*, 6 *M. & S.* 108.

The power of a justice to accept or refuse bail in cases of misdemeanor is a judicial duty, and an action will not lie against him for refusing to take bail in such cases without proof of express malice, even though the sureties tendered are found by the jury to have been sufficient. *Linford v. Fitzroy*, 18 *L. J. (N. S.) M. C.* 108; 13 *J. P.* 119, 474.

tences, or with perjury or subornation of perjury, or with concealing the birth of a child by secret burying or otherwise, or with wilful or indecent exposure of the person, or with riot, or with assault in pursuance of a conspiracy to raise wages, or assault upon a peace officer in the execution of his duty, or upon any person acting in his aid, or with neglect or breach of duty as a peace officer, or with any misdemeanor for the prosecution of which the costs may be allowed out of the county rate, such justice of the peace may, in his discretion, admit such person to bail, upon his procuring and producing such surety or sureties as in the opinion of such justice will be sufficient to ensure the appearance of such accused person at the time and place when and where he is to be tried for such offence; and thereupon such justice shall take the recognizance (S. 1, 2) of the said accused person and his surety or sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial, and not depart the court without leave; and in all cases where a person charged with any indictable offence shall be committed to prison to take his trial for the same, it shall be lawful, at any time afterwards, and before the first day of the sitting or session at which he is to be tried, or before the day to which such sitting or session may be adjourned, for the justice or justices of the peace who shall have signed the warrant for his commitment, in his or their discretion, to admit such

Justices may admit to bail in the like cases after commitment for trial.

Bail is taken by stating verbally to the accused and his sureties the substance of the recognizance, thus: *You A. B. of —, and you C. D. of —, and you E. F. of —, severally acknowledge yourselves to owe to our sovereign Lady the Queen the several sums following, that is to say, you the said A. B. the sum of —, &c.*; and the recognizance is then stated in the second person also. In suspicious cases twenty-four hours', and sometimes forty-eight hours' notice of bail is usually required; when the bail appears, whether such notice has been given or not, the justice or prosecutor, or any professional person on his behalf, may examine them on oath as to their sufficiency.

accused person to bail in manner aforesaid ; or if such committing justice or justices shall be of opinion that for any of the offences hereinbefore mentioned the said accused person ought to be admitted to bail, he or they shall in such cases, and in all other cases of misdemeanors, certify (S. 3) on the back of the warrant of commitment his or their consent to such accused party being bailed, stating also the amount of bail which ought to be required, it shall be lawful for any justice of the peace, attending or being at the gaol or prison where such accused party shall be in custody, on production of such certificate, to admit such accused person to bail in manner aforesaid ; or if it shall be inconvenient for the surety or sureties in such a case to attend at such gaol or prison to join with such accused person in the recognizance of bail, then such committing justice or justices may make a duplicate of such certificate (S. 4) as aforesaid, and upon the same being produced to any justice of the peace for the same county, riding, division, liberty, city, borough, or place, it shall be lawful for such last-mentioned justice to take the recognizance of the surety or sureties in conformity with such certificate, and upon such recognizance being transmitted to the keeper of such gaol or prison, and produced, together with the certificate on the warrant of commitment as aforesaid to any justice of the peace attending or being at such gaol or prison, it shall be lawful for such last-mentioned justice thereupon to take the recognizance of such accused party, and to order him to be discharged out of custody as to that commitment, as hereinafter mentioned ; and where any person shall be charged before any justice of the peace with any indictable misdemeanor other than those hereinbefore mentioned, such justice, after taking the examinations in writing as aforesaid, instead of committing him to prison for such offence, shall admit him to bail in manner aforesaid, or if he have been committed to prison, and shall apply to any one of the visiting justices of such prison, or to any other justice of the peace for the same county, riding.

Justice may admit to bail persons charged with other misdemeanors.

Certain
recognizance
to be trans-
mitted to
committing
justices.

No bail in
cases of
treason but
by order of
secretary of
state, &c.

Where de-
fendant
entitled to
traverse.

division, liberty, city, borough, or place, before the first day of the sitting or session at which he is to be tried, or before the day to which such sitting or session may be adjourned, to be admitted to bail, such justice shall accordingly admit him to bail in manner aforesaid; and in all cases where such accused person in custody shall be admitted to bail by a justice of the peace other than the committing justice or justices as aforesaid, such justice of the peace so admitting him to bail shall forthwith transmit the recognizance or recognizances of bail to the committing justice or justices, or one of them, to be by him or them transmitted, with the examinations, to the proper officer: provided nevertheless, that no justice or justices of the peace shall admit any person to bail for treason, nor shall such person be admitted to bail, except by order of one of Her Majesty's secretaries of state, or by Her Majesty's court of Queen's Bench at Westminster, or a judge thereof in vacation: provided also, that when, in cases of misdemeanor, the defendant shall be entitled to a traverse at the next assizes or quarter sessions, and shall not be bound to take his trial until the second assizes or sessions, in every such case the recognizance (S. 1) of bail shall be conditioned that he shall appear and plead at the next assizes or sessions, and then traverse the indictment, and that he shall surrender and take his trial at such second assizes or sessions, unless such accused party shall, before he enter into such recognizance, choose and consent to take his trial at such first assizes or sessions, in which case the recognizance may be in the ordinary form hereinbefore mentioned.

When jus-
tice admits a
person to
bail after
commitment
a writ of
deliverance
shall be sent
to him if not
detained for
any other
offence.

XXIV. And be it enacted, that in all cases where a justice or justices of the peace shall admit to bail any person who shall then be in any prison charged with the offence for which he shall be so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison a warrant of deliverance (S. 5) under his or their hand and seal or hands and seals, requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence, and

upon such warrant of deliverance being delivered to or lodged with such keeper he shall forthwith obey the same.

XXV. And be it enacted, that when all the evidence offered upon the part of the prosecution against the accused party shall have been heard, if the justice or justices of the peace then present shall be opinion that it is not sufficient to put such accused party upon his trial

If, after hearing evidence against the accused, it is not thought sufficient to warrant

Note to Section 25.—If after hearing all the evidence brought forward against the accused, the justice determine upon discharging him, no documentary writing is necessary to authorize the discharge. A direction by word of mouth to discharge the prisoner in such case is all that is necessary.

If, on the other hand, the justice determine upon committing the accused to take his trial for the offence alleged against him, the committal may be either to the common gaol of the county or to the house of correction near to the place where the assizes or sessions are to be holden, and at which the prisoner is intended to be tried. 5 & 6 Will. 4, c. 38, s. 3. In drawing out the warrant of commitment, care must be taken not to commit for trial at the sessions for an offence of which the sessions have not jurisdiction, as to which see s. 20 and *note*. As to the committal for offences on the high seas, &c. see s. 2 and *note*.

The justices in a criminal charge brought before them have a discretion as to what course they will adopt under the circumstances; therefore, where, upon a charge of perjury before two justices, it appeared that the perjury was alleged to have been committed in a deposition made in a suit then pending in the ecclesiastical court, to which both the informant and the person charged were parties, and the justices declined further to proceed in the matter, the court refused to compel them to proceed, as they had a discretion in the matter which they had properly exercised. *Reg. v. Ingham*, 19 L. J. R. (N. S.) M. C. 69; 13 J. P. 379. A commitment for perjury, stating that "H. B., in a certain affidavit made and sworn to by him before one C. C., a competent authority by law to administer the same, did falsely, wickedly, wilfully and corruptly commit wilful and corrupt perjury," was held to be bad, as not stating that the oath was administered in a judicial proceeding, or before a competent authority to administer an oath in a judicial proceeding. *Reg. v. Bartlett*, 12 L. J. (N. S.) M. C. 127; 8 J. P. 578. Justices, it may be added, have no jurisdiction to commit to prison for perjury by the common law. Touching the administration of oaths by justices, see 5 & 6 Will. 4, c. 62, s. 13,

commitment he shall be discharged; but if evidence considered sufficient, justice shall, by warrant, commit the accused for trial.

for any indictable offence, such justice or justices shall forthwith order such accused party, if in custody, to be discharged as to the information then under inquiry; but if, in the opinion of such justice or justices, such evidence is sufficient to put the accused party upon his trial for an indictable offence, or if the evidence given raise a strong or probable presumption of the guilt of such accused

and *Reg. v. Nott*, 12 L. J. (N. S.) M. C. 143; 8 J. P. 351. With respect to accomplices, it is necessary to observe that it is the duty of a magistrate in all cases to commit an accomplice, and not to admit him to bail, notwithstanding that it may be intended to call him as a witness on the trial. See the remarks of Patteson, J., in *Rex v. Beardmore*, 7 Car. & P. 497.

Where a complaint of a criminal nature is made before justices, which, upon the evidence, amounts to an offence not within their jurisdiction to determine, it is their duty either to dismiss the complaint, or to commit the person charged for trial by a jury. Therefore, where an information charged a man with unlawfully assaulting and abusing a woman, and the only evidence was that of the woman, who swore to a rape, it was held that the justices ought either to have committed for trial, or, if they disbelieved the woman, to have dismissed the case; and that they were not justified in convicting the man under 16 & 17 Vict. c. 30, of an aggravated assault. In *re Thompson*, 30 L. J. (N. S.) M. C. 19; 7 Jur. N. S., 48; 25 J. P. 166, the judges being equally divided, the rule nisi, which had been granted in the case for a *habeas corpus ad subjiciendum*, dropped.

Where a prisoner has been lodged in gaol under a bad warrant of commitment, even in the nature of a conviction (as where the commitment is under the Vagrant Act, 5 Geo. 4, c. 85, s. 4), a good warrant of commitment subsequently delivered to the gaoler, but before a rule for a *habeas corpus* has been obtained, will be a good answer to that rule; so held in *ex parte Cross*, 26 L. J. (N. S.) M. C. 201; 2 H. & N. 354, confirming *Reg. v. Richards*, 5 Q. B. 926. Where, however, a warrant of commitment setting out a conviction is good on the face of it, it is doubtful whether, on the return to a writ of *habeas corpus*, affidavits are admissible raising objections not appearing upon the warrant, as for instance, disclosing a former conviction for the same offence. *Ex parte Baker*, 26 L. J. (N. S.) M. C. 155; 21 J. P. 486.

With regard to the commitment of prisoners in certain counties of cities and towns corporate to be tried at assizes held for adjoining county, it is enacted by the 14 & 15 Vict. c. 55, s. 19, as follows: "Whenever any justice or justices of the peace, or coroner, acting for any county of a city or county of a town

party, then such justice or justices shall, by his or their warrant (T. 1), commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place to which by law he may now be committed, or, in the case of an indictable offence committed on the high seas, or on land beyond the sea, to the common gaol of the county, riding, division, liberty,

corporate within which Her Majesty has not been pleased for five years next before the passing of this Act to direct a commission of oyer and terminer and gaol delivery to be executed, and until Her Majesty shall be pleased to direct a commission of oyer and terminer and gaol delivery to be executed within the same, shall commit for safe custody to the gaol or house of correction of such county of a city or town any person charged with any offence committed within the limits of such county of a city or town not triable at the court of quarter sessions of the said county of a city or county of a town, the commitment shall specify that such person is committed pursuant to this Act, and the recognizances to appear to prosecute and give evidence taken by such justice, justices, or coroner shall in all such cases be conditioned for appearance, prosecution, and giving evidence at the court of oyer and terminer and gaol delivery for the next adjoining county; and whenever any such person shall be so committed, the keeper of such gaol or house of correction shall deliver to the judges of assize for such next adjoining county a calendar of all prisoners in his custody so committed, in the same way that the sheriff of the county would be by law required to do if such prisoners had been committed to the common gaol of such adjoining county; and the justice, justices, or coroner by whom persons charged as aforesaid may be committed, shall deliver or cause to be delivered to the proper officer of the court the several examinations, informations, evidence, recognizances, and inquisitions relative to such persons at the time and in the manner that would be required in case such persons had been committed to the gaol of such adjoining county by a justice or justices, or coroner, having authority so to commit, and the same proceedings shall and may be had thereupon at the sessions of oyer and terminer or general gaol delivery for such adjoining county as in the case of persons charged with offences of the like nature committed within such county." And by s. 24—"For the purposes of this Act the counties named in the second column of schedule (C.) to the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter seventy-six, shall be considered next adjoining the counties of cities and towns corporate in the first column of the same schedule in conjunction with which they are respectively named." The

city, borough, or place within which such justice or justices shall have jurisdiction, to be there safely kept until he shall be thence delivered by due course of law, or admit him to bail as hereinbefore mentioned.

Regulations
for convey-
ing prisoners
to gaol.

XXVI. And be it enacted, that the constable or any of the constables or other persons to whom the said warrant of commitment shall be directed shall convey such accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with such warrant, to the gaoler,

following are the counties, &c, named in schedule (C.) to the 5 & 6 Will. 4, c. 76 (the Municipal Corporations Act):

Berwick-upon-Tweed .	Northumberland.
Bristol . . .	Gloucestershire.
Chester . . .	Cheshire.
Exeter . . .	Devonshire.
Kingston-upon-Hull .	Yorkshire.
Newcastle-upon-Tyne.	Northumberland.

With regard to the execution of warrants of commitment by county constables, see 3 & 4 Vict. c. 88, s. 33.

Note to Section 26.—Under this section, it has been held that the treasurer of a county partly included within the metropolitan district, is liable to pay out of the county rate, expenses, which the prisoner may have no means of defraying, of a metropolitan police constable incurred in conveying a prisoner to the county gaol under a warrant directed to the police constable and delivered for execution to the police constable under 2 & 3 Vict. c. 47, s. 12; and also the like expenses incurred by a metropolitan police constable under warrants of commitment made by metropolitan police magistrates sitting at police courts. *Leverick v. Mercer*, 22 L. J. R. (N. S.) 81, M. C.; 17 J. P. 196.

But the county treasurer is not liable to pay to a police constable the expenses of conveying to a police court from the county gaol a prisoner who had been previously committed for re-examination, when the warrant to bring the prisoner up again was made, not on the police constable, but upon the gaoler who had employed the police constable to reconvey the prisoner. *Id.*

As regards the proviso enabling the justices to order money which the prisoner may have in his possession to be applied for the purpose of defraying the expenses of conveying him to gaol or prison, see the more extensive powers in that respect given by the 3 Jac. 1, c. 10, s. 1. With reference to the provi-

keeper, or governor of such gaol or prison, who shall thereupon give such constable or other person so delivering such prisoner into his custody a receipt (T. 2) for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such gaoler, keeper, or governor; and in all cases where such constable or other person shall be entitled to his costs or expenses for conveying such person to such prison as aforesaid it shall be lawful for the justice or justices who shall have committed the accused party, or for any justice of the peace in and for the said county, riding, division, or other place of exclusive jurisdiction wherein the offence is alleged in the said warrant to have been committed, to ascertain the sum which ought to be paid to such constable or other person for conveying such prisoner to such gaol or prison, and also the sum which should reasonably be allowed him for his expenses in returning, and thereupon such justice shall make an order (T. 2) upon the treasurer of such county, riding, division, liberty, or place of exclusive jurisdiction, or if such place of exclusive jurisdiction shall be contributory to the county rate of any county, riding, or division, then upon

As to payment of costs conveying prisoners to prison.

sion in this section regarding the payment by overseers of the poor of the costs of conveying prisoners to prison, the following provision in the first section of the 27 Geo. 2, c. 3, may be quoted: "When any person not having goods or money within the county where he is taken, sufficient to bear the charges of himself and of those who convey him, is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then, on application by any constable or other officer who conveyed him, to any justice of the peace for the same county or place [*there is clearly an omission here, but the roll of parliament is so*], shall, upon oath, examine into and ascertain the reasonable expenses to be allowed to such constable or other officer, and shall forthwith, without fee or reward, by warrant under his hand and seal, order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant, and any sum so paid shall be allowed in his accounts." It would seem that according to the wording of the 11 & 12 Vict. c. 42, s. 26, if in the county of Middlesex, the overseers must pay the costs; but there is no provision for the reimbursement out of the county rates.

the treasurer of such county, riding, or division respectively, or, in the county of Middlesex, upon the overseers of the poor of the parish or place within which the offence is alleged to have been committed, for payment to such constable or other person of the sums so ascertained to be payable to him in that behalf; and the said treasurer or overseers, upon such order being produced to him or them respectively, shall pay the amount thereof to such constable or other person producing the same, or to any person who shall present the same to him or them for payment: Provided nevertheless, that if it shall appear to the justice or justices by whom any such warrant of commitment against such prisoner shall be granted as aforesaid that such prisoner hath money sufficient to pay the expenses, or some part thereof, of conveying him to such gaol or prison, it shall be lawful for such justice or justices, in his or their discretion, to order such money or a sufficient part thereof to be applied to such purpose.

After examinations are completed, defendant entitled to copies of the depositions.

XXVII. And be it enacted, that at any time after all the examinations aforesaid shall have been completed, and before the first day of the assizes or sessions or other first sitting of the court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, of

Note to Section 27.—Until the examinations are completed and the prisoner finally committed for trial or admitted to bail, he is not entitled to copies of the depositions. Moreover, the enactment gives the right to such copy only when the person has been bailed or committed to prison for some offence for which he is to be tried, and with the view of enabling him to prepare for trial. Therefore, a person who has been committed to prison for default of sureties to keep the peace, and who has been discharged at the sessions, is not afterwards entitled to demand a copy of the examinations on which the commitment proceeded. *Reg. v. Humphreys*, 19 L. J. R. (N.S.) 189, M. C.

The 6 & 7 Will. 4, c. 114, s. 3, which is still in force in this respect, makes provision for the judge at the assizes, or the person presiding at the court where the prisoner is to be tried,

and from the officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding at the rate of three halfpence for each folio of ninety words.

XXVIII. And be it enacted, that the several forms in the schedule to this Act contained, or forms to the same or the like effect, shall be deemed good, valid, and sufficient in law. Forms in schedule deemed valid.

allowing him to have copies of the depositions, when he has not applied for them previous to the first day of the assizes or sessions. The present enactment is, however, quite distinct from the 6 & 7 Will. 4, c. 114, s. 3, which enacts "that all persons who shall be held to bail or committed to prison for any offence against the law, shall be entitled to require and have on demand (from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same), copies of the examinations of the witnesses respectively upon whose depositions they have been so held to bail or committed to prison, on payment of a reasonable sum for the same, not exceeding three-halfpence for each folio of ninety words: Provided always, that if such demand shall not be made before the day appointed for the commencement of the assize or sessions at which the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any copy of such examinations of witnesses, unless the judge or other person to preside at such trial shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; but it shall nevertheless be competent for such judge or other person so to preside at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged." Under this enactment, however, persons committed to prison for re-examination, on charges of felony, are not entitled to demand copies of the depositions; for the right to copies does not attach until the prisoner is held to bail, or committed to prison for trial. *Ex parte Joshua Fletcher*, 13 L. J. (N. S.) M. C. 67; and *Reg. v. London, Lord Mayor of*, 5 Q. B. 555; 8 J. P. 854. Neither is the defendant entitled to copies when the charge against him is dismissed. *Reg. v. Humphreys*, 4 N. S. C. 79; 19 L. J. R. (N. S.) M. C. 189.

Note to Section 28.—This section has only the effect of legalizing the particular forms contained in the schedule to the Act. The justices may, if they think fit, adopt any other

Metropolitan police magistrates and stipendiary magistrates in other places may act alone.

XXIX. And be it enacted, that any one of the magistrates appointed or hereafter to be appointed to act at any of the police courts of the metropolis, and sitting at a police court within the metropolitan police district, and every stipendiary magistrate appointed or to be appointed for any other city, town, liberty, borough, or place, and sitting at a police court or other place appointed in that behalf, shall have full power to do alone whatsoever is authorized by this Act to be done by any one or more justice or justices of the peace; and that the several forms in the schedule to this Act contained may be varied, so far as it may be necessary to render them applicable to the police courts aforesaid, or to the court or other place of sitting of such stipendiary magistrate; and that nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in an Act passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled "An Act for improving the Police in and near the Metropolis," or in an Act passed in the third year of the reign of Her present Majesty, intituled "An Act for further improving the Police in and near the Metropolis," or in an Act passed in the same year of the reign of Her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," or in an Act passed in the fourth year of the reign of Her present Majesty, intituled "An Act for better defining the Powers of Justices within the Metropolitan Police District."

Nothing to affect powers, &c., contained in 10 G. 4, c. 44, 2 & 3 Vict. c. 47, 2 & 3 Vict. c. 71, and 3 & 4 Vict. c. 84.

The Lord Mayor, or any alderman of London, may act alone.

XXX. And be it enacted, that it shall be lawful for the Lord Mayor of the city of London, or for any alderman of the said city, for the time being, sitting at the Mansion House or Guildhall Justice Rooms in the said city, to do alone any act, at either of the said justice

forms; but generally, it would be very inexpedient for them to do so, or to depart to any material extent from the forms thus legalized.

Note to Section 29.—See note to 11 & 12 Vict. c. 43, s. 33, *post*.

rooms, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice; and that nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in an Act passed in the third year of the reign of Her present Majesty, intituled "An Act for regulating the Police in the City of London."

Nothing to affect powers, &c. contained in 2 & 3 Vict. c. 94.

XXXI. And be it enacted, that the chief magistrate of the metropolitan police court at Bow Street for the time being shall be a justice of the peace of and for the county of Berks, if his name be inserted in the commission of the peace for that county, without possessing the qualification by estate required by law in that behalf, and without taking any oath of qualification.

Chief magistrate of Bow Street may be a justice for Berks, without qualification.

XXXII. And be it enacted, that the town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act, but nothing in this Act shall be deemed or taken to extend to Scotland or Ireland, or to the Isles of Man, Jersey, or Guernsey, save and except the several provisions respectively hereinbefore contained respecting the backing of warrants, and also nothing in this Act shall be deemed to alter or affect the jurisdiction or practice of Her Majesty's court of Queen's Bench.

Act to extend to Berwick-upon-Tweed, but not to Scotland, Ireland, &c., except as to backing of warrants.

Note to Section 32.—The 20 Geo. 2, c. 42, s. 3, enacts, that "in all cases where the kingdom of England, or that part of Great Britain called England, hath been or shall be mentioned in any Act of parliament, the same has been and shall from henceforth be deemed and taken to comprehend and include the dominion of Wales and the town of Berwick-upon-Tweed." But even previous to the 20 Geo. 2, the point that Berwick-upon-Tweed is parcel of the realm of England, was well established. See Hale's History of the Common Law, c. 9; 22 Ed. 4, c. 8; 27 Hen. 8, c. 26; 34 & 35 Hen. 8, c. 26; 2 Jac. 1, c. 28; *Rex v. Cowle*, 2 Burr. 850; *Berwick, Mayor of, v. Shanks*, 3 Bing. 459; and Com. Dig., *Scotland* (B). See also Blackstone's Comm. (1. Intro. s. 4.)

Commence-
ment of Act.

XXXIII. And be it enacted, that this Act shall commence and take effect on the second day of October in the year of our Lord one thousand eight hundred and forty-eight.

After com-
mencement
of this Act
the following
Acts and
parts of Acts
repealed.

- XXXIV. And be it enacted, that the following statutes and parts of statutes shall from and after the day on which this Act shall commence and take effect be and the same are hereby repealed; (that is to say,) a certain Act of Parliament made and passed in the thirteenth year of the reign of His late Majesty King George the Third, intituled "An Act for the more effectual Execution of Criminal Laws in the two Parts of the United Kingdom;" and a certain other Act made and passed in the twenty-eighth year of the reign of His said late Majesty King George the Third, intituled "An Act to enable Justices of the Peace to act as such in certain Cases out of the Limits of the Counties in which they actually are;" and so much of a certain other Act made and passed in the forty-fourth year of the reign of His said Majesty King George the Third, intituled "An Act to render more easy the apprehending and bringing to Trial Offenders escaping from one Part of the United Kingdom to the other, and also from one County to another," as relates to the apprehension of offenders escaping from Ireland into England, or from England into Ireland, and to the backing of warrants against such offenders; and so much of a certain other Act made and passed in the forty-fifth year of the reign of His said Majesty King George the Third, intituled "An Act to amend two Acts of the Thirteenth and Forty-fourth Years of His present Majesty, for the more effectual Execution of the Criminal Laws, and more easy apprehending and bringing to Trial Offenders escaping from one Part of the United Kingdom to the other, and from one County to another," as relates to the bailing of offenders escaping from Ireland into England, or from England into Ireland; and also a certain other Act made and passed in the fifty-fourth year of the reign of His said

Majesty King George the Third, intituled "An Act 54 G. 3, c. 186.
 e more easy apprehending and trying of Offenders
 ng from one Part of the United Kingdom to the
 ;" and also a certain other Act made and passed in
 st year of the reign of His late Majesty King
 e the Fourth, intituled "An Act to amend an Act 1 & 2 G. 4,
 in the Twenty-eighth Year of the Reign of King c. 68.
 e the Third, intituled 'An Act to enable Justices of
 eace to act as such in certain Cases out of the Limits
 : Counties in which they actually are;'" and so
 of a certain other Act made and passed in the third
 of the reign of His said late Majesty King George
 outh, intituled "An Act for the more speedy re- 3 G. 4, c. 46.
 nd levying of Fines, Penalties, and Forfeitures,
 ecognizances estreated," as relates to the form of
 nizances, and to the notice to be given to persons
 wledging the same; and so much of a certain other
 ade and passed in the seventh year of the reign of
 id late Majesty King George the Fourth, intituled
 Act to enable Commissioners for trying Offences 7 G. 4, c. 38.
 the Sea, and Justices of the Peace, to take Exami-
 is touching such Offences, and to commit to safe
 dy Persons charged therewith," as relates to the
 ; of such examinations, and the commitment of
 is so charged, by justices of the peace; and so much
 certain other Act made and passed in the said
 h year of the reign of His said late Majesty King
 e the Fourth, intituled "An Act for improving the 7 G. 4, c. 64.
 nistration of Criminal Justice in England," as re-
 o the taking of bail in cases of felony, and to the
 ; of the examinations and informations against per-
 harged with felonies and misdemeanors, and bind-
 ersons by recognizance to prosecute or give evi-
 ; and so much of a certain Act made and passed
 sixth year of the reign of His late Majesty King
 m the Fourth, intituled "An Act for preventing : & 6 W. 4,
 xatious Removal of Indictments into the Court of c. 33.
 s Bench, and for extending the Provisions of an
 ' the Fifth Year of King William and Queen Mary,

6 & 7 W. 4,
c. 114.

for preventing Delays at the Quarter Sessions of the Peace, to other Indictments, and for extending the Provisions of an Act of the Seventh Year of King George the Fourth as to taking Bail in Cases of Felony," as relates to the taking of bail in cases of felony; and so much of a certain other Act made and passed in the seventh year of the reign of His said late Majesty King William the Fourth, intituled "An Act for enabling Persons indicted for Felony to make their Defence by Counsel or Attorney," as relates to the right of parties charged with offences to have copies of the depositions or examinations against them; and all other Act or Acts or parts of Acts which are inconsistent with the provisions of this Act; save and except so much of the said several Acts as repeal any other Act or parts of Acts, and also except as to proceedings now pending to which the same or any of them are applicable.

Act may be
amended, &c.

XXXV. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of parliament.

SCHEDULE.

(A.)

Information and Complaint for an Indictable Offence.

— } The information and complaint of C. D. of
to wit. } — [yeoman], taken this — day of —
in the year of our Lord, 186 , before the undersigned,
[one] of Her Majesty's justices of the peace in and for
the said [county] of —, who saith that [*&c. stating
the offence*].

Sworn before [me], the day and year first above
mentioned, at —. J. S.

(B.)

*Warrant to apprehend a Person charged with an Indict-
able Offence.*

To the constable of —, and to all other peace
officers in the said [county] of —

Whereas A. B. of — [labourer], hath this day
been charged upon oath before the undersigned, [one] of
Her Majesty's justices of the peace in and for the said
county of —, for that he on — at — did, [*&c.
stating shortly the offence*]: These are therefore to
command you, in Her Majesty's name, forthwith to
apprehend the said A. B., and to bring him before [me],
or some other of Her Majesty's justices of the peace in
and for the said [county], to answer unto the said charge,
and to be further dealt with according to law.

Given under my hand and seal, this — day of —,
in the year of our Lord —, at —, in the [county]
aforesaid. J. S. (L.S.)

(C.)

Summons to a Person charged with an Indictable Offence.

To A. B. of — [labourer].

Whereas you have this day been charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that you on —, at — [&c., stating shortly the offence]: These are therefore to command you, in Her Majesty's name, to be and appear before me on —, at — o'clock in the forenoon at —, or before such other justice or justices of the peace for the same [county] as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the county aforesaid.

J. S. (L.S.)

(D.)

Warrant where the Summons is disobeyed.

To the constable of —, and to all other peace officers in the said [county] of —:

Whereas on the — last past, A. B. of — [labourer], was charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [&c., as in the summons]: And whereas [I] then issued [my] summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before [me] on —, at — o'clock in the forenoon, at —, or before such other justice or justices of the peace for the same [county] as might then be there, to answer to the said charge, and to be further dealt with according to law: And whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said summons, although it hath now been proved to me upon oath that the said summons was duly served upon the said A. B.: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the

said *A. B.*, and to bring him before me, or some other of Her Majesty's justices of the peace in and for the said [county], to answer to the said charge, and to be further dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

(E.)

Warrant to apprehend a Person charged with an Indictable Offence committed on the High Seas or Abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any county of this realm, and within the jurisdiction of the admiralty of England."

For offences committed abroad for which the parties may be indicted in this country, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the United Kingdom, to wit, at —, in the kingdom of —," or "at —, in the East Indies," or "at —, in the island of —, in the West Indies," or as the case may be.

(F.)

Certificate of Indictment being found.

I hereby certify, that at [a court of oyer and terminer and general gaol delivery, or a court of general quarter sessions of the peace,] holden in and for the [county] of —, at —, in the said [county], on — a bill of indictment was found by the grand jury against *A. B.*, therein described as *A. B.*, late of — [labourer], for that he [*&c.*, stating shortly the offence], and that the said *A. B.* hath not appeared or pleaded to the said indictment.

Dated this — day of —, 186

J. D.

Clerk of the indictments on the — circuit, or clerk of the peace of and for the said [county].

(G.)

Warrant to apprehend a Person indicted.

To the constable of —, and to all other peace officers in the said [county] of —.

Whereas it hath been duly certified by *J. D.*, clerk of the indictments on the — circuit [or clerk of the peace of and for the [county] of —] [that, &c., stating the certificate]: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and to bring him before [me], or some other justice or justices of the peace in and for the said [county], to be dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. *J. S.* (L. S.)

(H.)

Warrant of Commitment of a Person indicted.

To the constable of — and to the keeper of the [common gaol, or house of correction,] at —, in the said [county] of —.

Whereas by [my] warrant under my hand and seal, dated the — day of —, after reciting that it had been certified by *J. D.* [&c., as in the certificate], [I] commanded the constable of —, and all other peace officers of the said county, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and to bring him before [me], the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county], or before some other justice or justices of the peace in and for the said [county], to be dealt with according to law: And whereas the said *A. B.* hath been apprehended under and by virtue of the said warrant, and being now brought before [me], it is hereupon duly proved to [me] upon oath that the said *A. B.* is the same person who is named and charged in and by the said indictment: These are therefore to command you the said constable, in Her Majesty's name, forthwith to take and safely convey the said *A. B.* to the said [house of correction]

at — in the said [county], and there to deliver him to the keeper thereof, together with this precept: And I hereby command you the said keeper to receive the said *A. B.* into your custody in the said house of correction, and him there safely to keep until he shall be thence delivered by due course of law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(I.)

Warrant to detain a Person indicted who is already in Custody for another Offence.

To the keeper of the [common gaol, or house of correction,] at —, in the said [county] of —.

Whereas it hath been duly certified by *J. D.*, clerk of the indictments on the — circuit [or clerk of the peace of and for the county of —], that [*&c.*, stating the certificate]: And whereas [*I am*] informed that the said *A. B.* is in your custody in the said [common gaol] at — aforesaid, charged with some offence or other matter; and it being now duly proved upon oath before [*me*] that the said *A. B.* so indicted as aforesaid, and the said *A. B.* in your custody as aforesaid, are one and the same person: These are therefore to command you, in Her Majesty's name, to detain the said *A. B.* in your custody in the [common gaol] aforesaid, until by Her Majesty's writ of habeas corpus he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(K.)

Indorsement in backing a Warrant.

— } Whereas proof upon oath hath this day been
to wit. } made before me, one of Her Majesty's justices
of the peace for the said [county] of —, that the name
of *J. S.*, to the within warrant subscribed, is of the

handwriting of the justice of the peace within-mentioned; I do therefore hereby authorize *W. T.*, who bringeth to me this warrant, and all other persons to whom this warrant was originally directed, or by whom it may lawfully be executed, and also all constables and other peace officers of the said [county] of —, to execute the same within the said last-mentioned [county],* and to bring the said *A. B.*, if apprehended within the same [county], before me, or before some other justice or justices of the peace of the same county, to be dealt with according to law.

Given under my hand, this — day of — 186 .
J. L.

* *The words following this Asterisk are to be used only where the justice backing the warrant shall think fit, and may be omitted in backing English warrants in Ireland, Scotland, &c., or in backing Irish or Scotch warrants, &c. in England.*

(L. 1.)

Summons of a Witness.

To *E. F.* of — [labourer].

Whereas information hath been laid before the undersigned [one] of Her Majesty's justices of the peace in and for the said [county] of —, that *A. B.* [*&c.*, as in the summons or warrant against the accused], and it hath been made to appear to me upon [oath] that you are likely to give material evidence for the [prosecution]: These are therefore to require you to be and to appear before me on — next at — o'clock in the forenoon at —, or before such other justice or justices of the peace for the same county as may then be there, to testify what you shall know concerning the said charge so made against the said *A. B.* as aforesaid. Herein fail not.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(L. 2.)

Warrant where a Witness has not obeyed a Summons.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas information having been laid before the undersigned [one] of Her Majesty's justices of the peace in and for the said [county] of —, that *A. B.* [*&c. as in the summons*]; and it having been made to appear to [me] upon oath that *E. F.* of —, [*labourer*] was likely to give material evidence for the prosecution, I did duly issue my summons to the said *E. F.*, requiring him to be and appear before me on — at —, or before such other justice or justices of the peace for the same county as might then be there, to testify what he should know respecting the said charge so made against the said *A. B.* as aforesaid: And whereas proof, hath this day been made before me upon oath of such summons having been duly served upon the said *E. F.*: And whereas the said *E. F.* hath neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are therefore to command you to bring and have the said *E. F.* before me on — at — o'clock in the forenoon at —, or before such other justice or justices of the peace for the same [county] as may then be there, to testify what he shall know concerning the said charge so made against the said *A. B.* as aforesaid.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.

J. S. (L.S.)

(L. 3.)

Warrant for a Witness in the first instance.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas information hath been laid before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, that [*&c., as in summons*]; and it having been made to appear to [me] upon oath that *E. F.* of — [*labourer*] is likely to give material evidence for the prosecution, and that it is probable that the said *E. F.* will not attend to give evidence without being compelled so to do: These are

therefore to command you to bring and have the said *E. F.* before me on — at — o'clock in the forenoon at —, or before such other justice or justices of the peace for the same [county] as may then be there, to testify what he shall know concerning the said charge so made against the said *A. B.* as aforesaid.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

(L. 4.)

Warrant of Commitment of a Witness for refusing to be sworn or to give Evidence.

To the constable of — and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas *A. B.* was lately charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons]; and it having been made to appear to [me] upon oath that *E. F.* of — was likely to give material evidence for the prosecution, I duly issued my summons to the said *E. F.*, requiring him to be and appear before me on — at —, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge so made against the said *A. B.* as aforesaid; and the said *E. F.* now appearing before me [*or* being brought before me by virtue of a warrant in that behalf, to testify as aforesaid], and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do [*or* being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are here put to him], without offering any just excuse for such his refusal: These are therefore to command you the said constable to take the said *E. F.*, and him safely to convey to the [house of correction], at —, in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *E. F.* into your custody in the said [house of correction], and him there safely keep for the space of — days for his said contempt, unless he shall in the meantime consent

to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

(M.)

Depositions of Witnesses.

— } The examination of C. D. of — [farmer],
to wit. } and E. F. of — [labourer], taken on
[oath] this — day of —, in the year
of our Lord —, at —, in the [county]
aforesaid, before the undersigned, [one] of
Her Majesty's justices of the peace for the
said [county], in the presence and hearing
of A. B., who is charged this day before
[me], for that he the said A. B. on —,
at —, [*&c. describing the offence as in
a warrant of commitment*].

This deponent C. D. on his [oath] saith as follows,
[*&c., stating the deposition of the witness as nearly as
possible in the words he uses. When his deposition is
complete let him sign it*].

And this deponent E. F. upon his oath, saith as follows [*&c.*].

The above depositions of C. D. and E. F. were
taken and [sworn] before me at —, on the day
and year first above mentioned. J. S.

(N.)

Statement of the Accused.

—: A. B. stands charged before the undersigned,
[one] of Her Majesty's justices of the peace in and for
the [county] aforesaid, this — day of — in the year
of our Lord —, for that he the said A. B. on —
at —, [*&c. as in the caption of the depositions*]; and
the said charge being read to the said A. B. and the
witnesses for the prosecution, C. D. and E. F. being
severally examined in his presence, the said A. B. is
now addressed by me as follows: "Having heard the
evidence, do you wish to say anything in answer to the

charge? you are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial;" whereupon the said *A. B.* saith as follows:

[*Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.*]

A. B.

Taken before me at — the day and year first above mentioned.

J. S.

(O. 1.)

Recognizance to prosecute or give Evidence.

—: Be it remembered, that on the — day of —, in the year of our Lord —, *C. D.* of —, in the township of —, in the said county, *farmer*, [or *C. D.* of No. 2, — street, in the parish of — in the borough of —, *surgeon*, of which said house he is tenant], personally came before me, one of Her Majesty's justices of the peace for the said county, and acknowledged himself to owe to our sovereign Lady the Queen the sum of — of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, her heirs and successors, if he the said *C. D.* shall fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned, at —, before me.

J. S.

Condition to prosecute.

The condition of the within written recognizance is such, that whereas one *A. B.* was this day charged before me *J. S.*, justice of the peace within mentioned, for that [*&c.*, as in the caption of the depositions], if therefore he the said *C. D.* shall appear at the next court of oyer and terminer or general gaol delivery [or at the next court of general quarter sessions of the peace] to be holden in and for the [county] of —* and there prefer or cause to be preferred a bill of indictment for the offence aforesaid against the said *A. B.*, and there also duly prosecute such indictment, then the said recognizance to be void, or else to stand in full force and virtue.

Condition to prosecute and give Evidence.

Same as the last form to the asterisk, and then thus:—*
 “and there prefer or cause to be preferred a bill of indictment against the said *A. B.* for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon as well to the jurors who shall then inquire of the said offence as also to them who shall pass upon the trial of the said *A. B.*, then the said recognizance to be void, or else to stand in full force and virtue.”

Condition to give Evidence.

Same as the last form but one to the asterisk, and then thus:—*“and there give such evidence as he knoweth upon a bill of indictment to be then and there preferred against the said *A. B.* for the offence aforesaid, as well to the jurors who shall there inquire of the said offence as also to the jurors who shall pass upon the trial of the said *A. B.* if the said bill shall be found a true bill, then the said recognizance to be void, or else to stand in full force and virtue.”

(O: 2.)

Notice of the said Recognizance to be given to the Prosecutor and his Witnesses.

— } Take notice, that you *C. D.* of —, are
 to wit. } bound in the sum of — to appear at the
 next court of [*general quarter sessions of the peace*], in
 and for the county of —, to be holden at —, in the
 said county, and then and there [*prosecute and*] give
 evidence against *A. B.*; and unless you then appear
 there, and [*prosecute and*] give evidence accordingly,
 the recognizance entered into by you will be forthwith
 levied on you. Dated this — day of —, 186 .

J.S.

(P. 1.)

Commitment of Witness for refusing to enter into the Recognizance.

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas *A. B.* was lately charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons to the witness], and it having been made to appear to [me], upon oath that *E. F.* of — was likely to give material evidence for the prosecution, [I] duly issued [my summons to the said *E. F.*, requiring him to be and appear] before [me] on —, at —, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge so made against the said *A. B.* as aforesaid; and the said *E. F.* now appearing before [me], [or being brought before [me] by virtue of a warrant in that behalf, to testify as aforesaid,] hath been now examined by [me] touching the premises, but being by [me] required to enter into a recognizance conditioned to give evidence against the said *A. B.* hath now refused so to do: These are therefore to command you the said constable to take the said *E. F.*, and him safely to convey to the [house of correction] at —, in the [county] aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *E. F.* into your custody in the said house of correction, there to imprison and safely keep him until after the trial of the said *A. B.* for the offence aforesaid, unless in the meantime such *E. F.* shall duly enter into such recognizance as aforesaid in the sum of — pounds, before some one justice of the peace for the said [county], conditioned in the usual form to appear at the next court of [oyer and terminer or general gaol delivery, or general quarter sessions of the peace], to be holden in and for the [county] of —, and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said *A. B.* for the offence aforesaid, and also to give evidence upon

the trial of the said *A. B.* for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.

(P. 2.)

Subsequent Order to Discharge the Witness.

To the keeper of the [house of correction] at —, in the [county] of —.

Whereas by [my] order dated the — day of — [instant], reciting that *A. B.* was lately before them, charged before [me] for a certain offence therein mentioned, and that *E. F.* having appeared before me, and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said *A. B.*, and I therefore thereby committed the said *E. F.* to your custody, and required you safely to keep him until after the trial of the said *A. B.* for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid: And whereas, for want of sufficient evidence against the said *A. B.*, the said *A. B.* has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said *E. F.* should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said *E. F.* out of your custody as to the said commitment, and suffer him to go at large.

Given under [my] hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.

J. S. (L.S.)

(Q. 1.)

Warrant remanding a Prisoner.

To the constable of —, and to the [keeper of the house of correction] at —, in the said [county] of —.

Whereas *A. B.* was this day charged before the undersigned, [one] of Her Majesty's justices of the peace

in and for the said [county] of —, for that [*&c.*, as in the warrant to apprehend]; and it appears to me to be necessary to remand the said *A. B.*: These are therefore to command you the said constable, in Her Majesty's name, forthwith to convey the said *A. B.* to the [house of correction] at —, in the said [county], and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said *A. B.* into your custody in the said house of correction, and there safely keep him until the — day of — instant, when I hereby command you to have him at —, at — o'clock in the forenoon of the same day before me, or before such other justice or justices of the peace for the said [county] as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.

J. S. (I. S.)

(Q. 2.)

Recognizance of Bail instead of Remand, on an Adjournment of Examination.

—: Be it remembered, that on the — day of —, in the year of our Lord —, *A. B.* of —, labourer, *L. M.* of —, grocer, and *N. O.* of —, butcher, personally came before me, one of Her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our Lady the Queen the several sums following; that is to say, the said *A. B.* the sum of —, and the said *L. M.* and *N. O.* the sum of — each of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said *A. B.* fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned at —. before me,

J. S.

Condition.

The condition of the within-written recognizance is such, that whereas the within-bounden *A. B.* was this day [or on — last past] charged before me, for that [*&c.*, as in the warrant]: And whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the — day of — instant; if therefore the said *A. B.* shall appear before me on the said — day of — instant at o'clock in the forenoon, or before such other justice or justices of the peace for the said [county] as may then be there, to answer [further] to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

(Q. 3.)

Notice of such Recognizance to be given to the Accused and his Sureties.

—: Take notice, that you *A. B.* of — are bound in the sum of —, and your sureties *L. M.* and *N. O.* in the sum of — each, that you *A. B.* appear before me *J. S.*, one of Her Majesty's justices of the peace for the [county] of —, on —, the — day of — instant, at — o'clock in the forenoon, at —, or before such other justice or justices of the peace for the same [county] as may then be there, to answer further to the charge made against you by *C. D.*, and to be further dealt with according to law; and unless you *A. B.* personally appear accordingly the recognizances entered into by yourself and sureties will be forthwith levied on you and them. Dated this — day of —, 186

J. S.

(Q. 4.)

Certificate of Non-appearance to be indorsed on the Recognizance.

I hereby certify, that the said *A. B.* hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the within-written recognizance is forfeited.

J. S.

(R. 1.)

Warrant to convey the Accused before a Justice of the County, &c. in which the Offence was committed.

To *W. T.*, constable of —, and to all other peace officers in the said [county] of —.

Whereas *A. B.* of —, labourer, hath this day been charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said county of —, for that [*&c.*, as in the warrant to apprehend]: And whereas [I] have taken the deposition of *C. D.*, a witness examined by [me] in this behalf; but inasmuch as [I] am informed that the principal witnesses to prove the said offence against the said *A. B.* reside in the [county] of *C.*, where the said offence is alleged to have been committed: These are therefore to command you the said constable, in Her Majesty's name, forthwith to take and convey the said *A. B.* to the said [county] of *C.*, and there carry him before some justice or justices of the peace in and for that [county], and near unto the [*parish of D.*], where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and [I] hereby further command you the said constable to deliver to the said justice or justices the information in this behalf, and also the said deposition of *C. D.* now given into your possession for that purpose, together with this precept.

Given under my hand and seal, this — day of — in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(R. 2.)

Order for Payment of the Constable's Expenses.

To *R. W.*, Esquire, treasurer of the said county of *C.*

Whereas *W. T.*, constable of —, in the county of *A.* hath by virtue of and in obedience to a certain warrant of *J. S.* Esquire, [one] of Her Majesty's justices of the peace in and for the said county of *A.*, taken and conveyed one *A. B.*, charged before the said *J. S.* with having [*&c.*, stating shortly the offence], from — in

the said county of *A.* to — in the said county of *C.*, a distance of — miles, and produced the said *A. B.* before me, *S. P.*, one of Her Majesty's justices of the peace in and for the said county of *C.*, and delivered him into the custody of — by [*my*] direction, to answer to the said charge, and further to be dealt with according to law: And whereas the said *W. T.* hath also delivered to [*me*] the said warrant, together with the information in that behalf, and also the deposition of *C. D.* in the said warrant mentioned, and hath proved to [*me*] upon oath the handwriting of the said *J. S.* subscribed to the same: And whereas [*I*] have ascertained that the sum which ought to be paid to the said *W. T.* for conveying the said *A. B.* from the said county of *A.* to the said county of *C.*, and taking him before [*me*], is the sum of —, and that the reasonable expenses of the said *W. T.* in returning will amount to the further sum of —, making together the sum of —: These are therefore to order you, as such treasurer of the said county of *C.*, to pay unto the said *W. T.* the said sum of —, according to the form of the statute in such case made and provided, for which payment this order shall be your sufficient voucher and authority.

Given under my hand, this — day of —, 186 .
J. P.

(S. 1.)

Recognizance of Bail.

Be it remembered, that on the — day of —, in the year of our Lord —, *A. B.* of —, *labourer*, *L. M.* of —, *grocer*, and *N. O.* of —, *butcher*, personally came before [*us*] the undersigned, two of Her Majesty's justices of the peace for the said [*county*], and severally acknowledged themselves to owe to our Lady the Queen the several sums following; (that is to say,) the said *A. B.* the sum of —, and the said *L. M.* and *N. O.* the sum of — each, of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said *A. B.* fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned, at —, before us,

J. S.
J. N.

Condition in ordinary Cases.

The condition of the within-written recognizance is such, that whereas the said *A. B.* was this day charged before [*us*], the justices within mentioned, for that [*&c.*, *as in the warrant*]; if therefore the said *A. B.* will appear at the next court of oyer and terminer and general gaol delivery [*or court of general quarter sessions of the peace*] to be holden in and for the county of —, and there surrender himself into the custody of the keeper of the [*common gaol*] there, and plead to such indictment as may be found against him by the grand jury, for or in respect of the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

Condition where the Defendant is entitled to a Traverse.

The condition of the within-written recognizance is such, that whereas the said *A. B.* was this day charged before [*me*], the justice within mentioned, for that [*&c.*, *as in the warrant or summons*]; if therefore the said *A. B.* will appear at the next court of general quarter sessions of the peace [*or court of oyer and terminer and general gaol delivery*] to be holden in and for the county of —, and there plead to such indictment as may be found against him by the grand jury for or in respect of the charge aforesaid, and shall afterwards at the then next court of general quarter sessions of the peace [*or court of oyer and terminer and general gaol delivery*] surrender himself into the custody of the keeper of the [*house of correction*] there, and take his trial upon the said indictment, and not depart the said court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

(S. 2.)

Notice of the said Recognizance to be given to the Accused and his Bail.

Take notice, that you *A. B.* of — are bound in the sum of — and your [*sureties L. M. and N. O.*] in

the sum of — each, that you *A. B.* appear, &c. [*as in the condition of the recognizance*], and not depart the said court without leave; and unless you the said *A. B.* personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this — day of —, 186 . J. S.

(S. 3.)

Certificate of Consent to Bail by the committing Justice indorsed on the Commitment.

I hereby certify, that I consent to the within-named *A. B.* being bailed by recognizance, himself in —, and [*two*] sureties in — each. J. S.

(S. 4.)

The like, on a separate Paper.

Whereas *A. B.* was on the — committed by me to the [*house of correction*] at — charged with [*&c.*, naming the offence shortly]:

I hereby certify, that I consent to the said *A. B.* being bailed by recognizance, himself in — and [*two*] sureties in — each. Dated the — day of —, 186 . J. S.

(S. 5.)

Warrant of Deliverance on Bail being given for a Prisoner already committed.

To the keeper of the [*house of correction*] at — in the said [*county*] of —

Whereas *A. B.*, late of —, labourer, hath before [*us, two*] of Her Majesty's justices of the peace in and for the said county, entered into his own recognizance, and found sufficient sureties for his appearance at the next court of oyer and terminer and general gaol delivery [*or court of general quarter sessions of the peace*] to be holden in and for the county of —, to answer our sovereign Lady the Queen, for that [*&c.*, as in the

commitment], for which he was taken and committed to your said [house of correction]: These are therefore to command you, in Her said Majesty's name, that if the said *A. B.* do remain in your custody in the said [house of correction] for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this — day of —, in the year of our Lord —, at — in the [county] aforesaid.

J. S. (L. S.)
J. N. (L. S.)

(T. 1.)

Warrant of Commitment.

To the constable of — and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas *A. B.* was this day charged before me, *J. S.* one of Her Majesty's justices of the peace in and for the said [county] of —, on the oath of *C. D.* of —, farmer, and others, for that [*&c. stating shortly the offence*]: These are therefore to command you the said constable of — to take the said *A. B.*, and him safely to convey to the [house of correction] at — aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *A. B.* into your custody in the said [house of correction], and there safely keep him until he shall be thence delivered by due course of law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.

J. S. (L. S.)

(T. 2.)

Gaoler's Receipt to the Constable for the Prisoner, and Justice's Order thereon for Payment of the Constable's Expenses in executing the Commitment.

I hereby certify, that I have received from *W. T.*, constable of —, the body of *A. B.*, together with a warrant under the hand and seal of *J. S.*, Esquire, one of Her Majesty's justices of the peace for the [county] of —; and that the said *A. B.* was [sober, or as the

case may be], at the time he was so delivered into my custody.

P. K.,
Keeper of the house of
correction [or com-
mon gaol] at —.

CONSTABLE'S EXPENSES:

	£	s.	d.
For conveying the above A. B. from			
— to — [by railway], at —			
per mile - - - - -			
For conveying him to and from the			
railway station - - - - -			
For subsistence of prisoner whilst in			
custody after commitment — days,			
at — per day - - - - -			
For his lodging — nights, at — per			
night - - - - -			
Constable — days, at — per day -			
[One] assistant [if necessary] — days,			
at — per day - - - - -			
Total	£		

To R. W. Esquire, treasurer of the said [county] of —.

Whereas W. T., constable of —, in the county of —, hath produced unto me, J. P. one of Her Majesty's justices of the peace in and for the said county of — (wherein the offence hereinafter mentioned is alleged to have been committed), the above receipt of P. K., keeper of the [house of correction] at —: And whereas, in pursuance of the statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said W. T. for conveying the said A. B. from — in the said county of — to the said house of correction — is —, and that the reasonable expenses of the said W. T. in returning will amount to the further sum of —, making together the sum of —: These are therefore to order you as such treasurer of the said county of — to pay unto the said W. T. the said sum of — according to the form of the statute in such case made and provided, for which payment this order shall be your sufficient voucher and authority.

Given under my hand, this — day of —, 186 .
J. P.

Received the — day of —, 186 , of the treasurer of the [county] of —, the sum of —, being the amount of the above order.

£



SUMMARY CONVICTIONS AND ORDERS.

11 & 12 VICTORIA, CAP. 43.

An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales, with respect to Summary Convictions and Orders.
[14th August, 1848.]

WHEREAS it would conduce much to the improvement of the administration of justice within England and Wales, so far as respects summary convictions, and orders to be made by Her Majesty's justices of the peace

Note to Section 1.—In this Act the distinction between an "information" and a "complaint" should always be kept in mind. An information is *laid* against a person charged with the commission of, or who is suspected to have committed, an offence for which he is liable by law, upon a summary conviction, to be imprisoned or fined, or otherwise punished. A complaint is *made* when the person is liable by law to have an order made upon him by justices for the payment of money, or to do some act which he has refused or neglected to do contrary to law. After laying the information or making the complaint, as the case may be, the next step in the proceeding is to obtain the appearance of the defendant; and for this purpose either a summons or a warrant issues. If on the issuing of a summons the defendant appear before the justices at the time and place named in it, the plaintiff being also present, the matter is heard by the justices, and the witnesses, first for the plaintiff and then for the defendant, are examined and cross-examined as to the facts, and the matter which is the subject of the information or complaint adjudicated upon by the justices. If the defendant do not appear to the summons, either by himself or by his attorney, or other agent, the plaintiff being present, the justices may, on the service of the summons being duly proved by the constable, and if they are satisfied that it came to his hands in sufficient time to enable him to attend, proceed with the hearing of the case *ex parte* (s. 2), and adjudicate accordingly; or instead of hearing the plaintiff they may issue a warrant to bring the defendant before them, as in s. 2.

therein, if the several statutes and parts of statutes relating to the duties of such justices in respect of such summary convictions and orders were consolidated, with such additions and alterations as may be deemed neces-

In so far the proceedings of the justices upon an information or complaint are the same, only that the latter need not be in writing (see s. 8); but when they adjudicate upon an information they either convict or acquit the defendant of the offence charged. If they convict him they do so in the forms (I. 2) or (I. 3), see s. 14, and adjudicate the penalty or punishment. If they acquit the defendant they make an order of dismissal in the form (L.), see s. 14. On the other hand, when they adjudicate upon a complaint, they make an order for the payment of money (K. 1), (K. 2), s. 14, or for the matter to be done (K. 3), s. 14; or in like manner dismiss the complaint, form (L.), s. 14. In either case the conviction or order is enforced by warrant of distress, or commitment if necessary.

With reference to proceedings before justices under their summary jurisdiction, it is necessary to observe that a judgment of a court of concurrent jurisdiction directly upon the point is conclusive between the same parties upon the same matter directly in question in another court. When therefore a servant in husbandry who had been discharged by her master before the proper time, sued him in the county court for wrongfully discharging her without reasonable cause, whereupon judgment was given for the defendant; and she afterwards, at the expiration of her quarter, took out a summons before justices under the 4 Geo. 4, c. 34, s. 5, to recover her quarter's wages, the same question arising, upon a case stated under the 20 & 21 Vict. c. 43, it was held that the decision of the county court was a bar to such proceeding. *Routledge v. Hislop*, 2 L. T. (N. S.) 53; 6 Jur. (N. S.) 398; 24 J. P. 146. The rule of law, as stated by De Grey, C. J., in delivering the opinion of the judges in the house of lords in the *Duchess of Kingston's Case* (2 Smith's L. C. 593, 4th ed.) is, that "the judgment of a court of concurrent jurisdiction directly upon the point is, as a plea, a bar, or as evidence, conclusive between the same parties upon the same matter directly in question in another court."

In order to obtain a summons it is not necessary that the information or complaint should be to two or more justices; for it is competent for any one justice within whose jurisdiction the matter may have arisen to issue it; and that even though the hearing must be before two or more justices (s. 29). As before observed, it is not necessary that a complaint should be in writing; but in every case an information must be reduced into writing before a summons can issue. The summons is addressed to

sary, and that such duties should be clearly defined by such positive enactment: Be it therefore declared and enacted by the Queen's most excellent Majesty, by and

the defendant himself, and is served by the constable by delivering it to him personally, or by leaving it with some person for him at his last or most usual place of abode. Care in that case should be taken to give it to some member of the defendant's family, or, if he be a lodger, to his landlord or other person likely to give it to him; and the constable must attend before the justices at the time appointed for the hearing to prove the service of it if necessary.

With regard to the service of a summons on a joint stock company, it is enacted by the Joint Stock Company's Act, 1856, 19 & 20 Vict. c. 47, s. 53, that any summons or notice requiring to be served upon the company may, except in cases where a particular mode of service is directed, be served by leaving the same or sending it through the post addressed to the company at their registered office, or by giving it to any director, secretary, or other principal officer of the company.

The first proviso provides for cases in which the justices can by law make orders *ex parte*; as, for instance, orders for the removal of paupers from one parish to another in England, or to Ireland or Scotland; in which case no summons can be issued to any one to show cause against the order before it is made. With respect to the second proviso it may be observed, that if the defendant attend upon the summons, his appearance will cure every defect in it (see also s. 9).

No order, whether it be for the payment of money or otherwise (except such orders as are provided for by the first proviso), can be made by a justice in the absence of the person to be affected by it; and therefore before it is made, a summons should be issued, even though it may not be in terms required by the particular Act of parliament on which the order is founded. *Reg. v. Totnes*, 14 L. J. R. (N. S.), M. C. 148; 9 J. P. 584.

With regard to the time of service of a summons, it is to be observed that the justices are the judges of whether a summons is served in a reasonable time before the hearing; and the fact that a defendant did not receive the summons until eleven o'clock at night (which fact was not known to the justices), it having been left at eight o'clock in the morning at the house of the defendant, did not deprive them of their jurisdiction to hear and adjudicate upon the complaint. In *re Williams*, 21 L. J. R. (N. S.), M. C. 46; 2 Prac. Rep. 280; 16 J. P. 181.

If the proceeding be for the recovery of a sum of money "as damages," under the provision of any Act of parliament, the justices have exclusive jurisdiction, as in the case of *Black-*

In all cases where information shall be laid or complaint made of offences committed, justices may issue summons to persons to answer the same.

with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that in all cases where an information shall be laid before one or more of Her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place within England or Wales, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such justice or justices for which he is liable by law, upon a summary conviction for the same before a justice or justices of the peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint shall be made to any such justice or justices upon which he or they have or shall have authority by law to make any order for the payment of money or otherwise, then and in every such case it shall be lawful for such justice or justices of the peace to issue his or their summons (A.) directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain

burn v. Parkinson, 28 L. J. (N. S.) M. C. 7; 23 J. P. 202, where, by a special Act incorporating the 8 Vict. c. 20, and the 10 & 11 Vict. c. 34, it was enacted that certain expenses incurred by the commissioners in paving streets, &c. might be "recovered as damages;" and an action having been brought to recover expenses so incurred, it was held that such action was not maintainable, for that the proper construction of the several Acts was that the expenses were to be recovered as damages upon a proceeding before justices.

Referring to the last proviso to this section,—the following illustrates what is not a variance within the statute. An appellant was summoned on a charge of being drunk and guilty of riotous behaviour, an offence punishable under the Town Police Clauses Act, 1847, (10 & 11 Vict. c. 89, s. 2,) and was convicted by the justices of drunkenness under the 21 Jac. 1, c. 7. On a case stated under s. 2 of the 20 & 21 Vict. c. 43, s. 2, it was held that the conviction was bad, and that there was not a variance between the time or place mentioned in the summons and the evidence. The summons was for a kind of joint offence, and the justices convicted of another offence, punishable in another and a different way. The proper course is in such a case to take out another summons. *Martin, app., Pridgeon, resp.*, 5 Jur. (N. S.) 894; 33 L. T. 119; 23 J. P. 277.

time or place before the same justice or justices, or before such other justice or justices of the same county, riding, division, liberty, city, borough, or place as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him at his last or most usual place of abode; and the constable, peace officer, or person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of the said summons: Provided always, that nothing herein mentioned shall oblige any justice or justices of the peace to issue any such summons in any case where the application for any order of justices is by law to be made *ex parte*: Provided also, that no objection shall be taken or allowed to any information, complaint, or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, or summons and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint as hereinafter mentioned; but if any such variance shall appear to the justice or justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

How summons to be served.

Justices not obliged to issue summonses in certain cases.

No objection allowed for want of form.

II. And be it enacted, that if the person so served with a summons as aforesaid shall not be and appear before the justice or justices at the time and place men-

If summons be not obeyed, justices may

Note to Section 2.—A warrant may be issued in two instances: 1st, in the event of the summons not being obeyed; and 2nd, it may be issued in the first instance without a summons. Instead of issuing a warrant to bring the defendant

issue war-
rant;

tioned in such summons, and it shall be made to appear to such justice or justices, by oath or affirmation, that such summons was so served what shall be deemed by such justice or justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such justice or justices, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their warrant (B.) to apprehend the party so summoned, and to bring him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough or place, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction

or may issue
warrant

before them, the justices may proceed *ex parte*, as already explained; but if for any reason they do not think it expedient to do so, they will issue their warrant, after proof of the service of the summons a reasonable time before the time appointed for the hearing. What is a "reasonable time" will be of course for the justices to determine with reference to each case, and therefore no general rule can be laid down. See *in re Williams*, supra, p. 87. If they should be of opinion that a reasonable time has not elapsed, or if the constable do not attend to prove the summons, they should withhold the issue of a warrant; and if the defendant requires them to do so, issue another summons for the defendant's attendance before them at a future day.

A warrant to apprehend can be issued in either case of an information or complaint, after a summons has been issued and the defendant has not appeared; but a warrant to apprehend in the first instance can only issue in the case of an information. In such case it is discretionary with the justice whether he will issue it or not; and he will act advisedly by confining the issue of a warrant in the first instance to cases in which there is every probability of a summons not being attended to, or that the accused person will abscond when he is informed of the proceedings that are being taken against him. A summons may issue without the plaintiff being sworn; but the section requires that the information shall be laid before the justice, upon oath or affirmation, substantiating the truth thereof to his satisfaction, previous to his issuing a warrant in the first instance.

the justice or justices before whom such information shall have been laid may, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, instead of issuing such summons as aforesaid, issue in the first instance his or their warrant (C.) for apprehending the person against whom such information shall have been so laid, and bringing him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough or place, to answer to the said information, and to be further dealt with according to law; or if, where a summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justice or justices then present that such summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such justice or justices of the peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon, as fully and effectually, to all intents and purposes, as if such party had personally appeared before him or them in obedience to the said summons.

in the first instance;

or if summons, having been duly served, be not obeyed, the justices may proceed *ex parte*.

III. And be it enacted, that every such warrant to apprehend a defendant, that he may answer to any such information or complaint as aforesaid, shall be under the hand and seal or hands and seals of the justice or jus-

Form of warrant.

Note to Section 3.—The observations on the tenth section of the 11 & 12 Vict. c. 42, *ante*, may be referred to as being equally applicable to the provision in this section regarding warrants to apprehend. It should be observed that such of the provisions of that Act as relate to the backing of warrants are inserted into and incorporated with the 11 & 12 Vict. c. 43, by the operation of ss. 3 & 37. Section 2 of that Act enables a justice for any offence punishable on summary conviction to issue his warrant in the first instance, without a previous sum-

Where and
how warrant
may be
executed.

tices issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other district within which the same is to be executed, without naming him, or to such constable and all other constables within the county or other district within which the justice or justices issuing such warrant hath or have jurisdiction, or generally to all the constables within such last-mentioned county or district, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constable or other person to whom it is directed to apprehend the said defendant, and to bring him before one or more justice or justices of the peace (as the case may require) of the same county, riding, division, liberty, city, borough or place, to answer to the said information or complaint, and to be further dealt with according to law; and that it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such warrant may be executed by apprehending the defendant at any place within the county, riding, division, liberty, city, borough or place within which the justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining county or place within seven miles of the border of such first-mentioned county, riding, division, liberty, city, borough or place, without having such warrant backed as hereinafter mentioned;

mons; consequently a warrant may be issued and executed, after being backed in either Ireland, Scotland, or the islands mentioned, in the case of a person committing any offence punishable summarily upon conviction—as for instance, an offence against the Vagrant Act, 5 Geo. 4, c. 83—and the offender brought before the justice issuing it, or any other justice having jurisdiction in the same place or district, and if the charge be substantiated punished accordingly. See also 14 & 15 Vict. c. 55, s. 18, p. 25, as to the officers competent to indorse warrants in the Isles of Guernsey, Jersey, Alderney, and Sark.

With regard to the execution of warrants by county and borough constables, see 22 & 23 Vict. c. 32, s. 2, *ante*, p. 13.

and in all cases where such warrant shall be directed to all constables or peace officers within the county or other district within which the justice or justices issuing the same shall have jurisdiction, it shall be lawful for any constable, headborough, tithingman, borsholder, or other peace officer for any parish, township, hamlet, or place situate within the limits of the jurisdiction for which such justice or justices shall have acted when he or they granted such warrant, to execute such warrant in like manner as if such warrant were directed specially to such constable by name, and notwithstanding that the place in which such warrant shall be executed shall not be within the parish, township, hamlet, or place for which he shall be such constable, headborough, tithingman, borsholder, or other peace officer; and such of the provisions and enactments contained in a certain Act of parliament made and passed in this present session of parliament, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Persons charged with Indictable Offences," as to the backing of any warrant, and the indorsement thereon by a justice of the peace or other officer, authorizing the person bringing such warrant, and all other persons to whom the same was originally directed, to execute the same within the jurisdiction of the justice or officer so making such indorsement, as are applicable to the provisions of this Act, shall extend to all such warrants, and to all warrants of commitment issued under and by virtue of this Act, in as full and ample a manner as if the said several provisions and enactments were here repeated and made parts of this Act: Provided always, that no objection shall be taken or allowed to any such warrant to apprehend a defendant so issued upon any such information or complaint as aforesaid under or by virtue of this Act, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the informant or complainant as hereinafter mentioned; but if any such

Certain provisions of 11 & 12 Vict. c. 42, as to backing of warrants to extend to warrants issued under this Act.

No objection allowed for want of form in the warrant, or for any variance between it and evidence adduced;

but if the party charged is deceived by the variation, he may be committed or discharged upon recognizance;

variance shall appear to the justice or justices present and acting at such hearing to be such that the party so apprehended under such warrant has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D.) the said defendant to the house of correction or other prison, lock-up house, or place of security, or to such other custody as the said justice or justices shall think fit, or to discharge him upon his entering into a recognizance (E.), with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a defendant shall be discharged upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying (F.) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

but if he fail to re-appear the justice may transmit the recognizance to the clerk of the peace.

Description of the property of partners, &c.;

IV. And be it enacted, that in any information or complaint, or the proceedings thereon, in which it shall be necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of

Notes to Section 4.—This provision is similar to that contained in the 7 Geo. 4, c. 64, ss. 14—18, with regard to indictable offences. The 5 & 6 Will. 4, c. 69, s. 7, also makes provision for describing in legal proceedings the goods of the guardians of the poor of a union. As regards money belong-

such persons, and to state the property to belong to the person so named and another or others, as the case may be, and whenever in any information or complaint, or the proceedings thereon, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any work or building made, maintained, or repaired at the expense of any county, riding, division, liberty, city, borough or place, or of any materials for the making, altering, or repairing of the same, they may be therein described as the property of the inhabitants of such county, riding, division, liberty, city, borough or place, respectively; and all goods provided by parish officers for the use of the poor may in any such information or complaint, or the proceedings thereon, be described as the goods of the churchwardens and overseers of the poor of the parish, or of the overseers of the poor of the township or hamlet, or of the guardians of the poor of the union to which the same belong, without naming any of them; and all materials and tools provided for the repair of highways at the expense of parishes or other districts in which such highways may be situate, may be therein described as the property of the surveyor or surveyors of such highways respectively, without naming him or them; and

of the property of counties;

of the property in goods provided for the poor;

of the property in materials for parish roads;

ing to a parish, see the 12 & 13 Vict. c. 103, s. 15, which enacts, "that in respect of any indictment or other criminal proceeding every collector or assistant overseer appointed under the authority of any order of the poor-law commissioners, or the poor-law board, shall be deemed and taken to be the servant of the inhabitants of the parish whose money or other property he shall be charged to have embezzled or stolen, and shall be so described; and it shall be sufficient to state any such money or property to belong to the inhabitants of such parish, without the names of any such inhabitants being specified." This enactment removes the difficulty experienced in *Reg. v. Townsend*, 2 Car. & K. 168.

of the property in materials for turnpike-roads, &c.;

of the property of commissioners of sewers.

Prosecution and punishment of aiders and abettors in the commission of offences.

all materials or tools provided for making or repairing any turnpike road, and buildings, gates, lamps, boards, stones, posts, fences or other things erected or provided for the purpose of any such turnpike road, may be described as the property of the commissioners or trustees of such turnpike road, without naming them; and all property of the commissioners of sewers of any district may be described as the property of such commissioners without naming them.

V. And be it enacted, that every person who shall aid, abet, counsel, or procure the commission of any offence which is or hereafter shall be punishable on summary conviction shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction,

Note to Section 5.—This extends to persons who aid, counsel, or abet in the commission of offences punishable on summary conviction, the provisions in the 7 & 8 Geo. 4, c. 29, s. 62, and c. 30, s. 31 (Peel's Acts), regarding indictable offences. A conviction cannot be procured under this section, unless the principal offence has actually been committed; but from *Rex v. Vaughan*, 4 Burr. 2494, and *Rex v. Higgins*, 2 East, 5, it would seem that, although the offence be not actually committed, the soliciting or inciting another to commit it is a misdemeanor at common law, and punishable accordingly. It should be remembered, however, that there the offence charged was that of inciting another to commit a felony. Though there may be accessories after the fact in regard to felonies, there can be none such in the case of an offence punishable on summary conviction, as the above section only applies to aiding, &c. the *commission* of any offence.

A warrant of commitment for aiding, abetting, counselling, and procuring a person to commit an offence under the 4 Geo. 4, c. 34, described the offence of the accessory by reference to the offence of the principal, which was correctly stated, and was held to be good; for the charging the accessory as aiding, abetting, counselling, and procuring, is a good charge, it being consistent that the several offences were the result of one act. In a case of this nature the court will not inquire into the jurisdiction of the committing magistrate. *Ex parte Charles Smith*, 3 H. & N. 227; 27 L. J. R. (N.S.) M. C. 186; 22 J. P. 834. That case also shows that where a warrant of commitment is found to be defective the error may be amended by a second warrant of commitment.

and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the county, riding, division, liberty, city, borough, or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring may have been committed.

VI. And be it enacted, that such of the provisions and enactments in the Act aforesaid made and passed in this present session of parliament, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Persons charged with Indictable Offences," whereby a justice of the peace for one county, riding, division, liberty, city, borough, or place may act for the same whilst residing or being in an adjoining county, riding, division, liberty, city, borough, or place of which he is also a justice of the peace, or whereby a justice of the peace for any county at large, riding, division, or liberty, may act as such within any city, town, or precinct next adjoining thereto or surrounded thereby, being a county of itself, or otherwise having exclusive

Provisions
of 11 & 12
Vict. c. 42,
as to justices
in one
county, &c.,
acting for
another to
extend to
this Act.

Notes to Section 6.—See 11 & 12 Vict. c. 42, s. 6, and 13 & 14 Vict. c. 91, s. 9; which latter enacts that "The justices of every city or borough shall have the same jurisdiction with respect to all offences committed and matters arising within such city or borough as the justices of the county in which such city or borough is situate now have under or by virtue of any local or general Act of parliament; and such offences and matters shall be cognizable by one or more of the justices of such city or borough in the same manner as such offences and matters are now cognizable by one or more justices of such county: Provided always, that in every case in which imprisonment may be awarded for or in respect of any such offences or matters aforesaid, or to enforce payment of any penalty, rate, sum of money, or costs imposed or made payable by or by virtue of any such general or local Act or otherwise, such imprisonment may be awarded to take place in any gaol or house of correction to which the justices of the said city or borough now have or hereafter may have power to commit offenders."

jurisdiction, as are applicable to the provisions of this Act, shall be deemed to be incorporated into this Act, and to extend to all Acts required of or to be performed by justices of the peace under or by virtue of this Act, in as full and ample a manner as if the said provisions and enactments were here repeated and made parts of this Act.

Power to
justice to
summon
witnesses to
attend and

VII. And be it enacted, that if it shall be made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within

Note to Section 7.—Before a summons is issued to compel the attendance of an unwilling witness, oath or affirmation must be made before the justice, that such witness, if present, would be able to give evidence material to the prosecutor, or complainant, or defendant, as the case may be, and that he will not voluntarily appear as a witness. The summons (G. 1) must be served upon the witness, either personally or by being left at his last or most usual place of abode. It need not necessarily be served by a constable, but may be served by any person, and at the time of service a reasonable sum should be tendered to defray the witness's expenses of going to and returning from the place of hearing. If the witness do not obey the summons, and no just excuse be offered, then upon proof upon oath or affirmation of the service of the summons, and tender of reasonable costs, a warrant (G. 2) may be issued to apprehend him. The warrant, in such case, will be executed by the constable or other peace officer in the usual manner; but if the witness be not within the jurisdiction of the justice issuing the warrant, then it may be backed in the same way as an ordinary warrant to apprehend. On the other hand, if the justices should be satisfied by evidence upon oath or affirmation, that it is probable the witness will not attend to give evidence unless he is compelled to do so, such justice may issue his warrant to apprehend (G. 3), in the first instance, without a previous summons, which may be executed the same, in all respects, as a warrant to apprehend upon a previous summons. If, when the witness is got before the justice, he refuse to be examined, or refuse to be sworn, or to answer the questions put to him without offering any just excuse for such refusal, he may be committed (G. 4) for seven days to the common gaol or house of correction, unless he shall sooner consent to be examined. As to the bringing up prisoners who are in gaol to be examined as witnesses in any matter, civil or criminal, depending, or to be inquired of, or determined, in or before any justice, the 16 Vict. c. 30, s. 9, enacts, "That it shall be lawful for one of Her

the jurisdiction of such justice is likely to give material evidence in behalf of the prosecutor or complainant or defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such information or complaint, such justice may and is hereby required to issue his summons (G. 1) to such person under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons before the said justice, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, as shall then be there, to testify what he shall know concerning the matter of the said information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person, either personally or by leaving the same for him with some person at his last or most

give evidence:

If summons be not obeyed, justices may issue warrant:

Majesty's principal secretaries of state, or any judge of the court of Queen's Bench or Common Pleas, or any baron of the Exchequer, in any case, where he may see fit to do so, upon application by affidavit, to issue a warrant or order under his hand for bringing up any prisoner or person confined in any gaol, prison, or place, under any sentence or under commitment for trial or otherwise (except under process in any civil action, suit, or proceeding), before any court, judge, justice, or other judicature, to be examined as a witness in any cause or matter, civil or criminal, depending, or to be inquired of, or determined, in or before such court, judge, justice, or judicature; and the person required by such warrant or order to be so brought before such court, judge, justice, or other judicature, shall be so brought under the same care and custody, and be dealt with in like manner in all respects, as a prisoner required by any writ of *habeas corpus* awarded by any of Her Majesty's superior courts of law at Westminster to be brought before such court to be examined as a witness in any cause or matter depending before such court, is now by law required to be dealt with." With regard to the examining of witnesses in proceedings to be had before justices in petty or special sessions, or out of sessions, under the provisions of the Poor Law Acts, see 7 & 8 Vict. c. 101, s. 70.

In certain cases may issue warrant in the first instance.

Persons appearing on summons, &c., refusing to be examined, may be committed.

usual place of abode, and that a reasonable sum was paid or tendered to him for his costs and expenses in that behalf) it shall be lawful for the justice or justices before whom such person should have appeared to issue a warrant (G. 2) under his or their hands and seals to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the said summons, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, as shall then be there, to testify as aforesaid, and which said warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the justice who shall have issued the same; or if such justice shall be satisfied by evidence upon oath or affirmation, that it is probable that such person will not attend to give evidence without being compelled so to do, then, instead of issuing such summons, it shall be lawful for him to issue his warrant (G. 3) in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last-mentioned justice or justices, either in obedience to the said summons, or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having there jurisdiction, may by warrant (G. 4) under his hand and seal, commit the person so refusing to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

VIII. And be it enacted, that in all cases of complaints upon which a justice or justices of the peace may make an order for the payment of money or otherwise, it shall not be necessary that such complaint shall be in writing, unless it shall be required to be so by some particular Act of parliament upon which such complaint shall be framed.

Complaints for an order need not be in writing.

IX. And be it declared and enacted, that in all cases of informations for any offences or acts punishable upon summary conviction any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof as to the parish or township in which the offence or act shall be alleged to have been committed shall not be deemed material, provided that

As to proceedings upon informations for offences punishable on summary convictions.

Note to Section 8.—See note to s. 1, *ante*.

Note to Section 9.—This section relates exclusively to proceedings upon informations. There is nothing in the Act which in express terms requires that an information shall be in writing; but looking to the language of this section and to the express mention in s. 8 that complaints need not be in writing, nothing being there said about informations, the obvious inference is that the latter must, or at all events ought to be in writing.

No objection shall be taken to the proceedings on the ground of variance between an information and the evidence in support of it:—1. As to the time at which the offence or act alleged to have been committed, if it be proved that the information was in fact laid within the time limited by law for laying the same, see s. 11, *post*, and 12 & 13 Vict. c. 103, s. 9, *post*, p. 104. (The courts will take judicial cognizance that a place lies east or west of Greenwich, and consequently has a time different from that of Greenwich. *Curtis v. March*, 4 Jur. (N. S.) 1112; 23 J. P. 663.) 2. As to the parish or township in which the offence or act shall be alleged to have been committed; and 3, in any other respect unless such variance shall appear to the justices present and acting at the hearing to be such as to have deceived or misled the accused. Section 1 provides for objections to an information for alleged defects in substance or in form.

The party charged, if deceived by variation between information and evidence, may be committed or discharged upon recognizance;

but if he fail to re-appear, the justice may transmit the recognizance to the clerk of the peace.

the offence or act be proved to have been committed within the jurisdiction of the justice or justices by whom such information shall be heard and determined; and if any such variance, or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the justice or justices present and acting at the hearing to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D.) the said defendant to the house of correction or other prison, lock-up house, or place of security, or to such other custody as the said justice or justices shall think fit, or to discharge him upon his entering into a recognizance (E.), with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned:

Provided always, that in all cases where a defendant shall be discharged upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying (F.) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

Manner of making complaint or

X. And be it declared and enacted, that every such complaint upon which a justice or justices of the peace

Note to Section 10.—As to the distinction between a complaint and an information, see s. 1 and note thereon. They may respectively be laid without any oath or affirmation

is or are or shall be authorized by law to make an order, ^{laying in-} and that every information for any offence or act punish- ^{formation.} able upon summary conviction, unless some particular Act of parliament shall otherwise require, may respectively be made or laid without any oath or affirmation being made of the truth thereof; except in cases of in- ^{When war-} formations where the justice or justices receiving the ^{rant issued} same shall thereupon issue his or their warrant in the first ^{in the first} instance to apprehend the defendant as aforesaid, and in ^{instance, in-} every such case where the justice or justices shall issue ^{formation to} his or their warrant in the first instance the matter of ^{be upon} such information shall be substantiated by the oath or ^{oath, &c.} affirmation of the informant, or by some witness or witnesses on his behalf, before any such warrant shall be issued; and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint; and every such information shall be for one offence only, and not for two or more offences; and every such complaint or information may be laid or

being made of the truth of them, except in cases where a warrant may be issued in the first instance (when they must be upon oath or affirmation, see s. 2), and except also in cases where the statute making the offence provides to the contrary. A complaint for an order need not be in writing (s. 8), but it would seem that an information ought to be. See note to ss. 2, 9.

Every complaint must be for one matter of complaint only; and every information for one offence only, and not for two or more; and they may be laid or made by the informant or complainant himself, by his counsel or attorney, or by any other person whom he may expressly authorize. See also s. 12. When persons are jointly charged with an offence, only one information is necessary against both, or as many as there may be; for only one offence has been committed within the meaning of the section, though several may have been concerned in its commission.

An information should state the circumstances which constitute the particular offence with precision, according to the definition in the statute under which it is laid; and the particular acts done should also be stated in order that it may be seen whether they constitute an offence within the statute. This should be done as a rule, but any variance between the information and the evidence adduced in support of it will not render the proceedings invalid. See s. 1.

made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf.

Time limited
for such

XI. And be it enacted, that in all cases where no time is already or shall hereafter be specially limited for

Note to Section 11.—Previous to this statute there was no general limitation of the time within which informations or complaints might be laid or made. In general the statute creating the offence limits the time, but if it do not the information or complaint must now be laid or made within six calendar months after the offence was committed or the matter of complaint arose; except in proceedings taken by a district poor law auditor for the recovery of monies certified to be due under the 7 & 8 Vict. c. 101, s. 32; the 12 & 13 Vict. c. 103, s. 9, having enacted “that nothing in the provisions of the said Act herein recited (*i. e.* 11 & 12 Vict. c. 43, s. 11.) shall be deemed to apply to any such proceeding by any auditor, but that no auditor shall commence any such proceeding after the lapse of nine calendar months from the disallowance or surcharge by such auditor, or, in the event of an application by way of appeal against the same to the court of Queen’s Bench or to the Poor Law Board, after the lapse of nine calendar months from the determination thereupon.”

Section 11 of the 11 & 12 Vict. c. 43, applies to an order of justices made for the payment of expenses of the maintenance of a pauper under an order of removal, and therefore an application for an order to enforce them must be made within six calendar months of the time when demanded. An order for payment of such costs would not be a warrant or order of removal within the exemption in s. 35 of the 11 & 12 Vict. c. 43. *Collumpton v. Brighton*, 3 L. T. (N. S.) 318. S. C. nom. *Hill, app., Thorncroft, resp.*, 7 Jur. (N. S.) 163; 24 J. P. 741.

By some it is considered that this Act prevents proceedings being taken for the recovery of a poor rate more than six months after the rate was made; but the better opinion is that it does not. The statute contemplates “complaints upon which the justices” have or shall have authority by law to make any order for the payment of money or otherwise, and not cases where the order for payment has already been made by other competent authority, and the justice’s aid is only sought to enforce it. This is clear from sections 13 and 16, as, on a complaint under the Act, the party complained against may be apprehended, and if he cannot enter into satisfactory recognizances may be committed until the hearing. This cannot be done in the case of a defaulter in payment of poor rates. The forms given in the schedule moreover show that the Act con-

making any such complaint or laying any such information in the Act or Acts of parliament relating to each particular case, such complaint shall be made and such

complaint or
information.

templates cases where the justices adjudge the party to pay a sum of money, and not where a party has already been adjudged and assessed to pay a sum by another authority, namely, the overseers. Section 27 also refers to warrants of distress to enforce these orders, and therefore shows that warrants of distress are not themselves such orders or complaints as are meant originally. Further, the levying of poor rates is regulated by an express statute, the 12 & 13 Vict. c. 14.

But see *Reg. v. JJ. of Shrewsbury*, 31 L. T. p. 114. In that case more than six months after a demand of immediate payment of a church rate, which was not complied with, a second demand was made and a refusal given. Three days after a summons was taken out to levy the same by distress, (53 Geo. 3, c. 127, s. 7,) which the justices dismissed on the ground that the matter of complaint arose more than six months before the summons; and it was held that the justices had acted within their jurisdiction. The court, however said, referring to the rate, that it must not be considered as lost, and that in the case of another ratepayer, the magistrates may be asked to state a case for the opinion of the court, showing the ground of their determination in point of law; and if they do so, and the court think their grounds wrong, it will say so. *Ib.* 22 J. P. 395. In the Shrewsbury case it is to be observed that church rates are enforced by an order of justices, and not by a warrant of distress like poor rates. See also *Backhouse v. Bishopwearmouth*, 25 J. P. 70.

When a person summoned before justices, for non-payment of a church rate, *bond fide* objects before them to the validity of the rate, the justices have no power to make an order, though he does not object to their jurisdiction to decide the points which he has raised. *Reg. v. Leicester, JJ.*, 29 L. J. M. C. 203; 24 J. P. 391.

An order of two justices under the 8 Vict. c. 18, awarding compensation for damage done to a landowner by the construction of a railway, is within the 11 & 12 Vict. c. 43, s. 11. *Reg. v. Leeds and Bradford Railway Company*, 21 L. J. (N. S.) M. C. 193; 16 Jur. 817; 16 J. P. 631. In the same case it was also held that the section had a retrospective operation.

It has been held that, in proceedings for the recovery of expenses under the 18 & 19 Vict. c. 122, ss. 73, 103, section 11 of the 11 & 12 Vict. c. 43, being taken in connection with the 18 & 19 Vict. c. 122, ss. 73 and 103, (the matter of complaint being the nonpayment of the expenses,) the time of limitation ran from the demand and not from the completion of the works in respect of which the expenses were incurred, and

information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.

As to the hearing of complaints and informations.

XII. And be it enacted, that every such complaint and information shall be heard, tried, determined, and adjudged by one or two or more justice or justices of the peace, as shall be directed by the Act of parliament

therefore that the complaint was in time though beyond six months from the completion of the works. *Labalmondière v. Addison*, 28 L. J. M. C. 25; 1 E. & E. 41; 23 J. P. 26.

The limitation under the 11 & 12 Vict. c. 43, s. 11, applies to proceedings for the recovery of expenses incurred by a Local Board of Health under the 11 & 12 Vict. c. 63, s. 51. The complaint must be made within six calendar months of the amount being due and notice of the amount due being given to the party, and not within six months of the demand of payment. *Eddlestone, app. Francis, resp.* 7 C. B. (N. S.) 568; 3 L. T. (N. S.) 270.

An adjudication by two justices under the Lands Clauses Consolidation Act, 1845, and Railway Clauses Consolidation Act, 1845, of a sum below 50*l.* to be paid by a railway company as compensation for injury done to lands, is an order within s. 1 of this Act, and is bad under this section if the complaint on which the order is founded be made more than six calendar months after the cause of complaint arose; and such an order may be brought up by *certiorari* to be quashed. *In re James Edmunson*, 17 A. & E. 67. Under a local Act interest might be charged after three months if certain costs were not paid, and the whole recovered as damages. On a case stated it was held that interest did not begin to accrue before the expiration of the three months, and therefore that a demand of the amount due from an owner within three months of the completion of the works was a good demand from the date of which the period of six months for obtaining the money by an order of magistrates pursuant to the 11 & 12 Vict. c. 43, s. 11, began to run. *Parkinson v. Blackburn*, 22 J. P. 418. With reference to the 11 & 12 Vict. c. 43, s. 11, the following case may also be consulted: *Reg. v. Mainwaring*, 27 L. J. (N. S.) M. C. 278; 4 Jur. (N. S.) 928; 22 J. P. 367.

Note to Section 12.—This section only applies to cases in which the statute creating the offence has not expressly provided before what justices and what number of them the hearing is to be. See s. 29, which further enacts that it shall not be necessary that the hearing be before the justice or justices who received the information or complaint, or who issued the summons or warrant.

upon which such complaint or information shall be framed, or such other Act or Acts of parliament as there may be in that behalf; and if there be no such direction in any such Act of parliament, then such complaint or information may be heard, tried, determined, and adjudged by any one justice of the peace for the county, riding, division, liberty, city, borough, or place where the matter of such information shall have arisen; and the room or place in which such justice or justices shall sit to hear and try any such complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them; and the party against whom such complaint is made or information laid shall be admitted to make his full answer and defence thereto, and

Places in which justices shall sit to hear complaints, &c. to be deemed an open court.
Parties allowed to plead by

Under this statute the justices act judicially; under the 11 & 12 Vict. c. 42, they act ministerially; and therefore whilst under the above section they are required to sit to hear and try any information or complaint in open court, s. 19 of the 11 & 12 Vict. c. 42, provides that the place where the examination is taken shall not be an open court.

Under s. 10 any one may lay an information or complaint for another; and under this section the plaintiff or defendant may conduct his own cause before the justices, in person, or may do so by counsel or attorney. With regard to defendants, this was already provided for by 6 & 7 Will. 4, c. 114, s. 2, which enacted that in all cases of summary convictions, "persons accused shall be admitted to make their full answer and defence, and to have all witnesses examined and cross-examined by counsel or attorney.

With regard to the appearance of an attorney or solicitor before the justices on behalf of a plaintiff or defendant, it is enacted by the 6 & 7 Vict. c. 73, s. 2, (*inter alia*) that no person shall act as an attorney or solicitor at any general or quarter sessions, or before any justice or justices, unless he shall be admitted and enrolled and otherwise duly qualified to act as an attorney or solicitor pursuant to the directions and regulations of that Act, and unless he shall continue to be so qualified and on the roll at the time of his so acting. There is however an exception made in favour of clerks to boards of guardians by the 7 & 8 Vict. c. 101, s. 68. And it is to be added that the privileges of clerks to boards of guardians in this respect are expressly saved by the 23 & 24 Vict. c. 127, s. 33.

counsel or attorney.

to have the witnesses examined and cross-examined by counsel or attorney on his behalf; and every complainant or informant in any such case shall be at liberty to conduct such complaint or information respectively, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

If defendant does not appear, justices may proceed to hear and determine, or issue warrant and adjourn the hearing till defendant is apprehended.

XIII. And be it enacted, that if at the day and place appointed in and by the summons aforesaid for hearing and determining such complaint or information the defendant against whom the same shall have been made or laid shall not appear when called, the constable or other person who shall have served him with the summons in that behalf shall then declare upon oath in what manner he served the said summons; and if it appear to the satisfaction of any justice or justices that he duly served the said summons, in that case such justice or justices may proceed to hear and determine the case in the absence of such defendant, or the said justice or justices, upon the non-appearance of such defendant as aforesaid, may, if he or they think fit, issue his or their warrant in manner hereinbefore directed, and shall adjourn the hearing of the said complaint or information until the said defendant shall be apprehended; and when such defendant

Note to Section 13.—If at the time appointed for the hearing of the information or complaint the defendant do not appear, the justices, even though he be represented by counsel or attorney, may issue their warrant to enforce his obedience to the summons, by bringing him compulsorily before them, and may adjourn the hearing to a future day or hour, if it be thought that the defendant can be easily found. There is no obligation upon them to adjudicate upon the case in the absence of the defendant; but they may do so, whether he be represented by counsel or attorney, or not, if they think fit, upon proof that the summons was duly served. If, on the other hand, the defendant appear, but the plaintiff do not appear in person or by counsel or attorney, the justices may either dismiss the information or complaint, or they may adjourn the hearing. If it be thought that the defendant will not again appear, they may commit him, or they may discharge him upon recognizance, at their discretion; and if afterwards he do not appear, the recognizance may be estreated and a warrant issued for the apprehension of the defendant. See also s. 16.

shall afterwards be apprehended under such warrant he shall be brought before the same justice or justices, or some other justice or justices of the same county, riding, division, liberty, city, borough, or place, who shall thereupon, either by his or their warrant (H.), commit such defendant to the house of correction or other prison, lock-up house, or place of security, or, if he or they think fit, verbally to the custody of the constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said defendant to be brought up at a certain time and place before such justice or justices of the peace as shall then be there, of which said order the complainant or informant shall have due notice; or if upon the day and at the place so appointed as aforesaid such defendant shall attend voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the said justice or justices by virtue of any warrant, then, if the complainant or informant, having had such notice as aforesaid, do not appear, by himself, his counsel or attorney, the said justice or justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same unto some other day, upon such terms as he or they shall think fit, in which case such justice or justices may commit (D.) the defendant in the meantime to the house of correction or other prison, lock-up house, or place of security, or to such other custody as such justice or justices shall think fit, or may discharge him upon his entering into a recognizance (E.), with or without surety or sureties, at the discretion of such justice or justices conditioned for his appearance at the time and place to which such hearing shall be so adjourned; and if such defendant shall not afterwards appear at the time and place mentioned in such recognizance, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying (F.) on the back of the recognizance the non-appearance of the defendant, may transmit such recog-

If defendant appear, and complainant, &c., does not, justice may dismiss the complaint, &c., or at discretion adjourn hearing and commit or discharge defendant upon recognizances;

but if he fail to re-appear, the justice may transmit the recognizance to the clerk of the peace.

If both parties appear, justice to hear and determine the case.

nizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which the offence shall be laid to have been committed, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant; but if both parties appear, either personally or by their respective counsel or attornies, before the justice or justices who are to hear and determine such complaint or information, then the said justice or justices shall proceed to hear and determine the same.

Proceedings on the hearing of complaints and informations.

XIV. And be it enacted, that where such defendant shall be present at such hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to show why he should not

Note to Section 14.—Both parties being present at the hearing of the information or complaint, either by themselves or by counsel or attorney, the defendant is asked if he has any cause to show against the matter of information or complaint; and if he thereupon admit the truth of it, and show no cause, or no sufficient cause why he should not be convicted, or an order should not be made against him, the justices may at once convict him, or make an order against him. But before doing so, in cases where they are invested with a discretion as to the amount of punishment to be awarded, or the extent of the order they are to make, they may hear the evidence on both sides, so far as it may be necessary to guide them in awarding the punishment or making the order. It must be borne in mind that no order of justices can, without a previous summons, be made in the absence of the party whose interests are to be affected by it. *Reg. v. Totnes*, 14 L. J. R. (N. S.) M. C. 148; 2 N. S. C. 82; 9 J. P. 584.

When the truth of the information or complaint is denied, the justices first hear the prosecutor or plaintiff and his witnesses, and then the defendant and his witnesses, and also such witnesses as both may examine in reply, if the defendant have examined witnesses or given any evidence other than as to his general character; and on both sides the witnesses may be cross-examined and re-examined. But neither the prosecutor nor the defendant is entitled to reply upon the evidence. The justices having then considered the whole matter are to convict (I. 1-3) or make an order (K. 1-3), or dismiss the complaint or information, as the case may be. The conviction or order is then to be drawn up in proper form, and lodged with

be convicted, or why an order should not be made against him, as the case may be, and if he thereupon admit the truth of such information or complaint, and show no cause or no sufficient cause why he should not be con-

the clerk of the peace, for the purpose of being filed among the records of the general quarter sessions; and care should be taken to lodge it within the time limited by the particular statute, under which the proceedings may be taken; or if no time be limited, as soon after it is made as is practicable. If the information or complaint be dismissed, on being required to do so, the justices may make an order of dismissal (L.), and a certificate (M.), which will be a bar to any subsequent information or complaint for the same offence. It would seem that the application for the certificate of dismissal of a complaint may be made at any time after the complaint has been dismissed. See on this point *Costar v. Hetherington*, 28 L. J. (N. S.) M. C. 198; 23 J. P. 663.

With reference to the justices' certificate on the dismissal of an information or complaint, upon a proceeding under 9 Geo. 4, c. 31, it was held that where a magistrate dismisses a complaint for an assault on the ground that it is too trifling to merit punishment, the granting of a certificate under s. 27 of that Act is not a discretionary act, and therefore it may be done in the absence of the prosecutor. After the hearing of the prisoner, but before the next case was called on, the magistrate directed his clerk to make out the certificate, which the clerk did, and the next day sent it to the accused; and in an action for the assault, it was held that this was a sufficient compliance with the 9 Geo. 4, c. 31, s. 27, which directs that the magistrate shall "forthwith" make out a certificate. *Hancock v. Somes*, 5 Jur. (N. S.) 983; 23 J. P. 662. Again, where a party was convicted at petty sessions and sentenced to imprisonment, under the 6 Geo. 4, c. 129, which, in s. 12, gives a power of appeal, and provides that the execution of every judgment appealed from shall be suspended if the person convicted shall "immediately" enter into certain recognizances, with two sureties, it is not necessary that the recognizances should be taken at the time of conviction. The prisoner is entitled to be discharged, if he makes his application to have the recognizances taken promptly and expeditiously after the conviction, regard being had to all the circumstances of the particular case. *Reg. v. Aston*, 19 L. J. (N. S.) M. C. 236; 14 Jur. 1045; 15 J. P. 9. See 20 & 21 Vict. c. 43, *post*, as to appeals against justices' decisions under this Act.

If after the case has been decided one of the convicting justices should die before the conviction has been drawn up under the hands and seals of the justices, the statute provides no means whereby it can be returned to the quarter sessions.

victed, or why an order should not be made against him, as the case may be, then the justice or justices present at the said hearing shall convict him or make an order against him accordingly; but if he do not admit the truth of such information or complaint as aforesaid, then the said justice or justices shall proceed to hear the prosecutor or complainant, and such witnesses as he may examine and such other evidence as he may adduce, in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may

A conviction need not be signed by more than two of the convicting justices. In *ex parte Roynton*, 14 J. P. 129, Erle, J., said that it is sufficient if the conviction be signed by any two of the four convicting justices, and that there is no objection to that course, although other justices take part in the decision, and are named in the conviction.

If the information or complaint negative "any exemption, exception, proviso or condition," in the statute on which it shall be framed, the defendant must prove the affirmative, in his defence, if he desire to take advantage of it, as it is expressly provided that it shall not be necessary for the prosecutor or complainant to prove the negative in such case.

This is the general course of proceeding to be adopted at the hearing; but it is, nevertheless, necessary that attention should be paid in each case to the provisions of the particular statute under which proceedings may be taken, as they will not unfrequently be found at variance with this statute. Moreover, it will be seen that s. 35, *post*, specifies certain matters to which the Act shall not extend.

The court of Queen's Bench decided in *Labalmondière v. Frost*, 28 L. J. (N. S.) M. C. 155; 23 J. P. 598, that an order therein referred to, although drawn according to form K. 1 of this statute, was bad on the face of it for not adjudging the complaint to be true. Apparently, it will not be safe to follow implicitly the form in question. The justices should therefore adjudicate the complaint to be true, although that adjudication is omitted in the form K. 1.

Though this section enacts that if the justices convict or make an order against a defendant, a minute thereof shall then be made, and the conviction or order be afterwards drawn up in proper form, it is not necessary before issuing a warrant of distress that an order should have been formally drawn up under hand and seal; the pronouncing the order on one day, and the service of the minute of the order on the next, are sufficient to justify the issuing of the warrant. *Ratt v. Parkinson*, 20 L. J. R. (N. S.) M. C. 208; 15 J. P. 356. See also s. 17, *post*.

examine and such other evidence as he may adduce in his defence, and also to hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant shall have examined any witnesses or given any evidence other than as to his the defendant's general character; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid; and the said justice or justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be; and if he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I. 1-3) or order (K. 1-3) shall afterwards be drawn up by the said justice or justices in proper form, under his or their hand and seal or hands and seals, and he or they shall cause the same to be lodged with the clerk of the peace, to be by him filed among the records of the general quarter sessions of the peace; or if the said justice or justices shall dismiss such information or complaint, it shall be lawful for such justice or justices, if he or they shall think fit, being required so to do, to make an order of dismissal of the same (L.), and shall give the defendant in that behalf a certificate thereof (M.), which said certificate afterwards, upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively against the same party: *Provided* always, that if the information or complaint in any such case shall negative any exemption, exception, proviso, or condition in the statute on which the same shall be framed, it shall not be necessary for the prosecutor or complainant in that behalf to prove such negative, but the defendant may prove the

affirmative thereof in his defence, if he would have advantage of the same.

Prosecutors and complainants in certain cases to be deemed competent witnesses, and examined upon oath, &c.

XV. And be it enacted, that every prosecutor of any such information, not having any pecuniary interest in the result of the same, and every complainant in any such complaint as aforesaid, whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint respectively; and every witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the justice or justices before whom any such witness shall appear for the purpose of being so examined shall have full power and authority to administer to every such witness the usual oath or affirmation.

Power to justices to adjourn the hearing of cases, and commit defendant, or suffer him to go at large,

XVI. And be it enacted, that before or during such hearing of any such information or complaint it shall be lawful for any one justice, or for the justices present, in their discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or

Note to Section 15.—A distinction is here made between the competency of an informer or prosecutor of an information as a witness, and the competency of a complainant. The former is competent only when he has no pecuniary interest in the result of the case, and the latter is competent as a witness whatever his interest in the result may be. But when the particular statute under which the proceedings are taken makes the informer competent as a witness notwithstanding he is entitled to a portion of the penalty, his competency is not taken away by the present statute, but remains as before.

Note to Section 16.—Any one justice, or those who are present, may adjourn the hearing to a certain time and place to be appointed and stated in the presence and hearing of the party or parties then present, or of their attorneys or agents. If the justices should have no reason to fear that the defendant will not appear at the adjourned hearing they may suffer him to go at large without recognizances. In other cases they may commit him, or they may discharge him upon recognizance, with or without sureties, to appear at the time and place to which the hearing shall be adjourned, and if he then fail to appear the recognizance may be estreated. If at the

their respective attornies or agents then present, and in the meantime the said justice or justices may suffer the defendant to go at large, or may commit (D.) him to the common gaol or house of correction or other prison, lock-up house, or place of security in the county, riding, division, liberty, city, borough, or place for which such justice or justices shall be then acting, or to such other safe custody as the said justice or justices shall think fit, or may discharge such defendant upon his entering into a recognizance (E.), with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned; and if at the time or place to which such hearing or further hearing shall be so adjourned either or both of the parties shall not appear personally, or by his or their counsel or attornies respectively, before the said justice or justices, or such other justice or justices as shall then be there, it shall be lawful for the justice or justices then there pre-

or discharge him upon his own recognizance;

time and place appointed for the adjourned hearing neither of the parties appear, the justices may proceed as if they were both present, and adjudicate upon the case; and it will be proper that they adopt this course when they have reason to suppose that an improper compromise of the matter of information or complaint is intended. If, on the other hand, the prosecutor or complainant do not appear, the justices may dismiss the information or complaint, with or without costs.

It is laid down in the case of *Tunncliffe v. Tedd*, 16 L. J. (N. S.) M. C. 67; 12 J. P. 249, that an information is the commencement of a criminal proceeding analogous to an indictment; that the summons is the act of the magistrate on behalf of the public; and that the party who begins a criminal proceeding cannot withdraw from it, leaving it pending, but, on the contrary, that the party charged has a right to force it on to a conclusion; and that if, at the time for concluding the case, the informant offers no evidence in support of his charge, it ought to be dismissed, and that such a dismissal is a hearing. In that case the informant attended the return of the summons, and, on the defendant pleading not guilty, withdrew from the case.

The same principle has been held to apply to a case where the plaintiff did not appear on the return of the summons, but previously sent notice to the defendant that the summons was

but if he fail to re-appear, the justice may transmit the recognizance to the clerk of the peace.

sent to proceed to such hearing or further hearing as if such party or parties were present; or if the prosecutor or complainant shall not appear, the said justice or justices may dismiss such information or complaint, with or without costs, as to such justices shall seem fit: Provided always, that in all cases where a defendant shall be discharged on recognizance as aforesaid, and shall not afterwards appear at the time and place mentioned in such recognizance, then the said justice or justices who shall have taken the said recognizance, or any other justice or justices who may then be there present, upon

withdrawn, and where the magistrate dismissed the summons on the application of the defendant, and granted a certificate of dismissal. *Bradshaw v. Vaughton*, 30 L. J. (N. S.) 99; S. nom. *Vaughton, app., Bradshaw, resp.*, 7 Jur. (N. S.) 468.

By a railway Act penalties for breach of bye-laws were recoverable before a justice of the peace, and officers of the railway company were empowered to seize offenders under certain circumstances, and to convey them before a justice without a warrant, such justice being "empowered and required to proceed immediately to the conviction or acquittal of such offender." Defendant being brought before justices, charged with an offence against a bye-law of the company, it was held that although the act constituting the offence, gave no power to the justices to remand the accused, yet the justice was authorized, if in his discretion he thought fit, to commit defendant under a warrant pursuant to this section, to the house of correction; and this, even though the defendant had paid his fare, which he was charged with not having done. *Gelen v. Hall*, 27 L. J. (N.S.) M. C. 78; 2 H. & N. 379; 21 J. P. 710.

By the 12 & 13 Vict. c. 45, s. 7, power is given to the quarter sessions, on the trial of any appeal against any order or judgment made or given by any justice or justices, to amend such order or judgment, and to adjudicate thereupon as if no omission or mistake had occurred. The statute refers to "orders" and "judgments," but does not expressly name a "commitment" as being within the power of the court to amend, and it may therefore be a doubtful point how far a commitment is within the meaning of the statute. A commitment is in the nature of an order, for the justices thereby "order" the constable to take, and the gaoler to receive the prisoner into the gaol, and there him imprison. If this be the correct view then any omission or mistake in a commitment, as well as in any other order of justices, may be amended by the sessions.

certifying (F.) on the back of the recognizance the non-appearance of such accused party, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

XVII. And be it enacted, that in all cases of conviction where no particular form of such conviction is or shall be given by the statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon statutes hitherto passed, whether any particular form of conviction have been therein given or not, it shall be lawful for the justice or justices who shall so convict to draw up his or their conviction on parchment or on paper in such one of the forms of conviction (I. 1-3) in the schedule to this Act contained as shall be applicable to such case, or to the like effect; and where an order shall be made, and no particular form of order is or shall be given by the statute giving authority to make such order, and in all cases of orders to be made under the authority of any statutes hitherto

Form of
convictions
and orders.

Note to Section 17.—Formerly there was much variance in the mode in which convictions and orders were drawn up; and even though the 3 Geo. 4, c. 23, s. 1, gave a general form which was made applicable to all cases where a particular form was not prescribed by the statute creating the offence, uniformity was not thereby secured, for, owing to the prolixity of the form given in that statute, it came to be the practice in new Acts of parliament to insert the form of conviction which was to be used. These forms, however, were for the most part extremely defective. Now one general form is to be used in all cases where the statute does not otherwise direct, (I. 1-3), and so also when an order is to be made (K. 1-3). The conviction must set out the adjudication of the justices, and when a penalty is inflicted, for what length of time the defendant is to be imprisoned if it be not paid, or cannot be levied by distress. And when an order is made, before a warrant of commitment or distress can issue, a copy of the minute of the order must be served on the defendant, which,

passed, whether any particular form of order shall therein be given or not, it shall be lawful for the justice or justices by whom such order is to be made to draw up the same in such one of the forms of orders (K. 1-3) in the schedule to this Act contained as may be applicable to such case, or to the like effect; and in all cases where by any Act of parliament authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying any order of a justice or justices, the defendant shall be served with a copy of the minute of such order before any warrant of commitment or of distress shall issue in that behalf, and such order or minute shall not form any part of such warrant of commitment or of distress.

Power to
justice to
award costs,
which shall
be specified

XVIII. And be it enacted, that in all cases of summary conviction or of orders made by a justice or justices of the peace it shall be lawful for the justice or

however, is not to form any part of the warrant of commitment or of distress.

Where by a statute giving justices a power to convict summarily they are empowered to commit the offender to prison for a certain period, with or without hard labour, and in their warrant of commitment nothing is said about hard labour, it is to be taken that they do not mean to give hard labour; and the warrant would not be objectionable for omitting to state whether the imprisonment is to be with or without hard labour. *Ex parte Thompson*, 3 L. T. (N. S.) 318; 24 J. P. 805.

It is not necessary that an order of justices should be sealed with wax. An impression made in ink with a wooden block in the usual place of a seal is sufficient when the document purports to be given under the hands and seals of the justices, and is in fact signed and delivered by them. *Reg. v. St. Paul, Covent Garden*, 7 Q. B. 232; 9 J. P. 441.

As to the latter part of this section see s. 14, and *Ratt v. Parkinson*, cited in note thereon.

Note to Section 18.—The forms of conviction given in the schedule to this Act apply to all cases; and convictions drawn up in such of the forms as are applicable to the case are sufficient. Therefore, where a conviction under the Game Acts, 1 & 2 Will. 4, c. 32, and 5 & 6 Will. 4, c. 20, s. 21, adjudged a pecuniary penalty to be paid and applied according to law, following the words of Form I. 2, the latter Act providing that

justices making the same, in his or their discretion, to award and order in and by such conviction or order that the defendant shall pay to the prosecutor or complainant respectively such costs as to such justice or justices shall seem just and reasonable in that behalf; and in cases where such justice or justices, instead of convicting or making an order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him

in conviction or order of dismissal, and may be recovered by distress.

one moiety of the penalty should be paid to the informer, and the other moiety to go to the overseers of the poor, and to be paid to one of the overseers or to some parish officer appointed by the justices, it was held that the conviction was sufficient by virtue of sections 17 and 32 of this Act. *Reg. v. Hyde*, 21 L. J. R. (N. S.) M. C. 94; EL. & BL. 859; 16 Jur. 337; 16 J. P. 67.

See also *Reg. v. Barton*, 18 L. J. (N. S.), M. C. 56; 13 J. P. 120, which related to a conviction under 29 Car. 2, c. 7.

In drawing up a conviction, it should be borne in mind that where an Act of parliament gives summary proceedings for various offences, the conviction, though formally drawn, will not support a complaint, if it leaves it uncertain under which section of the Act the conviction actually took place. *Charter v. Græme*, 18 L. J. (N. S.) M. C. 73; 13 J. P. 232.

The following is a copy of a case which it is understood was laid before Lord Chief Justice Cockburn when at the bar, and of his opinion thereon as to the power of justices to award costs under this section on a conviction for drunkenness under 4 Jac. 1, c. 5.

"1. Whether the justices have the power of awarding costs to be paid by a defendant under a conviction for drunkenness?"

"2. If so, whether they have the power, in cases of non-payment of the costs and no sufficient distress, of committal to the house of correction under 11 & 12 Vict. c. 43?"

"3. Inasmuch as it is considered that the stocks are obsolete, and objectionable as a mode of punishment, and the public exposure of parties in that way is calculated to produce no beneficial effect, but the contrary result, is it lawful for the stocks to be set up within the walls of a gaol or lock-up house, and for offenders against the provisions of the Act 4 Jac. 1, c. 5, under such circumstances to be set therein?"

Opinion:—

"1. I am of opinion that the justices have power under the 11 & 12 Vict. c. 43, to award costs to be paid by the defendant on a conviction for drunkenness, under the statute of James.

"2. The view taken by the judges in the analogous case of *Reg. v. Barton* being that the putting in the stocks is not given by statute as a means of recovering the penalty, but as

or them, in his or their discretion, in and by his or their order of dismissal, to award and order that the prosecutor or complainant respectively shall pay to the defendant such costs as to such justice or justices shall seem just and reasonable, and the sums so allowed for costs shall in all cases be specified in such conviction or order or order of dismissal aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

Power to
justice to is-
sue warrant
of distress.

XIX. And be it enacted, that where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the statute authorizing such conviction or order such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the statute in that behalf no mode of raising or levying such

personal punishment substituted for it, I am of opinion that the justices have the power, under 11 & 12 Vict. c. 43, in cases of nonpayment of costs and of no sufficient distress, to commit to the house of correction.

"3. In this view it becomes unnecessary to consider the third question; but I am strongly inclined to think, that as publicity has always been considered the most efficacious part of that mode of punishment, the justices would not be justified in removing the stocks from a public to a private place.

"A. E. COCKBURN,
Temple."

"March 10, 1852.

Note to Section 19.—This enactment applies to cases in which the particular statute under which the proceedings are taken, is silent on the subject of levying the penalty or compensation, as well as to other statutes in which the mode of

penalty, compensation, or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the justice or justices making such conviction or order, or for any justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of distress (N. 1, 2) for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the justice making the same; and if after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed to be executed sufficient distress shall not be found within the limits of the jurisdiction of the justice granting such warrant, then, upon proof alone being made on oath of the handwriting of the justice granting such warrant before any justice of any other county or place, such justice of such other county or place shall thereupon make an indorsement (N. 3) on such warrant, signed with his hand, authorizing the execution of such warrant within the limits of his jurisdiction, by virtue of which said warrant and indorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such warrant was originally directed, or by any constable or other

How warrant to be backed.

enforcing the penalty, &c. is expressly directed. The warrant may be signed by any one justice having jurisdiction, whether he made the order or not (see s. 29); and it must be under seal. The statute also provides for the backing of the warrant, so that the constable may be enabled to follow the goods of the defendant; and, following the 33 Geo. 3, c. 55, s. 3, it enables the justices to issue a warrant of commitment at once, if upon the confession of the defendant it appear that he has no goods whereon to levy, or that a distress warrant would be ruinous to the defendant and his family. See also s. 23.

By statute 27 Geo. 2, c. 20, s. 1, in a warrant of distress, it shall be lawful for the justices to order and direct the goods to be sold within a certain time to be therein limited, so as such time be not less than four days, nor more than eight days, unless the penalty, together with the reasonable charges of taking and keeping such distress, be sooner paid. By s. 2, the officer may deduct the expenses of taking and selling the distress.

Where the issuing a warrant would be ruinous to defendant, or where there are no goods, justice may commit him to prison.

peace-officer of such last-mentioned county or place, by distress and sale of the goods and chattels of the defendant in such other county or place: Provided always, that whenever it shall appear to any justice of the peace to whom application shall be made for any such warrant of distress as aforesaid that the issuing thereof would be ruinous to the defendant and his family, or wherever it shall appear to such justice, by the confession of the defendant or otherwise, that he hath no goods or chattels whereon to levy such distress, then and in every such case it shall be lawful for such justice, if he shall deem it fit, instead of issuing such warrant of distress, to commit such defendant to the house of correction, or if there be no house of correction within his jurisdiction then to the common gaol, there to be imprisoned, with or without hard labour, for such time and in such manner as by law such defendant might be so committed in case such warrant of distress had issued, and no goods or chattels could be found whereon to levy such penalty or sum and costs aforesaid.

Justice after issuing warrant, may suffer defendant to go at large, or order him into custody, until return be made, unless he gives security by recognizance; but if he fail to re-appear,

XX. And be it enacted, that in all cases where a justice of the peace shall issue any such warrant of distress, it shall be lawful for him to suffer the defendant to go at large, or verbally or by a written warrant in that behalf, to order the defendant to be kept and detained in safe custody until return shall be made to such warrant of distress, unless such defendant shall give sufficient security, by recognizance or otherwise, to the satisfaction of such justice, for his appearance before him at the time and place appointed for the return of such warrant of

Note to Section 20.—This and the three following sections provide for the execution of convictions for penalties, and for the enforcement of orders for the payment of money.

When a distress warrant is issued, the justices may in their discretion, according to the circumstances of the particular case, adopt one or other of the following alternatives. They may suffer the defendant to go at large, or they may verbally, or by a written warrant, order him to be kept in custody until return shall be made by the constable to the warrant, unless

distress, or before such other justice or justices for the same county, riding, division, liberty, city, borough, or place as may then be there: Provided always, that in all cases where a defendant shall give security by recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying (F.) on the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which the offence shall be laid to have been committed, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

the justice may transmit the recognizance to the clerk of the peace.

XXI. And be it enacted, that if at the time and place appointed for the return of any such warrant of distress the constable who shall have had the execution of the

In default of sufficiency of distress, justice may

security be given for his appearance at the time appointed for the return of the warrant. Of course it is not necessary that in every case a distress warrant should issue, for the defendant may be willing to pay the penalty at once, or the justices may be satisfied with his undertaking to do so by the time specified in the conviction or order. If he fail in the undertaking, the warrant of distress may then issue; and if there be reason to think that the defendant will not appear when it is returnable, or that no sufficient distress will be found, he may be apprehended on a warrant and detained till the time for the return of the warrant, unless he give security that he will then be forthcoming.

The court, in its discretion, refused to grant a *mandamus* to justices to enforce a summary conviction by warrant of distress or commitment, in *re Williams*, 2 N. S. C. 570. In *ex parte Thomas*, 11 Jur. 107; 11 J. P. 295, it was also held that the court has a discretion as to granting a *mandamus* to justices to issue a distress warrant or a committal against a person summarily convicted by them.

Note to Section 21.—This and the following section provide for the commitment of the defendant in default of distress, and they apply to distinct matters, or rather to matters under dis-

commit de-
fendant to
prison.

same shall return (N. 4) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the justice of the peace before whom the same shall be returned to issue his warrant of commitment (N. 5) under his hand and seal, directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable to convey such defendant to the house of correction, or if there be no house of correction then to the common gaol of the county, riding, division, liberty, city, borough, or place for which such justice shall then be acting, and there to deliver him to the keeper thereof, and requiring such keeper to receive the defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, in such manner and for such time as shall have been directed and appointed by the statute on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice shall think fit so to order (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

tinct statutes. The present section has reference to the class of statutes which provide for the commitment of the defendant, in case no sufficient distress can be found whereon to levy the penalty and costs; and the following section to cases where the statute gives no remedy in default of distress. On the return of the constable that he can find no sufficient goods whereon to levy, the justices will proceed to draw out their warrant of commitment; and they must insert in it the whole of the costs incurred as well as the expenses which will be incurred in conveying the defendant to prison, if they are ordered to be paid in addition to the penalty. The commitment must be under seal; and it may be issued by any justice having jurisdiction. See s. 29, *post*.

XXII. And whereas by some Acts of parliament justices of the peace are authorized to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties; be it therefore enacted, that in all such cases, and in all cases of convictions or orders where the statute on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the party against whom such warrant shall have been issued can be found, it shall nevertheless be lawful for the justice to whom such return is made, or to any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, if he or they shall think fit, by his warrant as aforesaid, to commit the defendant to the house of correction or common gaol as aforesaid for any term not exceeding three calendar months, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and of the commitment and conveying of the defendant to

In all cases of penalties, convictions, or orders, where the statute provides no remedy in default of distress, justice may commit defendant to prison.

Note to Section 22.—This section is further extended by the 21 & 22 Vict. c. 73, by s. 5 of which it is enacted as follows:—“Section twenty-two of the Act of the session holden in the eleventh and twelfth years of Her Majesty, chapter forty-three, shall extend and be deemed to have extended to all cases in which it is returned to a warrant of distress issued under the authority of such Act for levying any penalty, compensation, or sum of money adjudged or ordered to be paid by any conviction or order, that no sufficient goods of the party against whom such warrant was issued can be found, where the statute on which the conviction or order is founded provides no mode of raising or levying such penalty, compensation, or sum of money, or of enforcing payment of the same, as well as to cases where the statute on which the conviction or order is founded authorizes the issuing thereon of a warrant of distress.” This enactment removes the doubt which was formerly entertained on the point, that since the 11 & 12 Vict. c. 43, justices had no authority under certain Acts to commit defendants to prison in default of distress for the penalty or other sums adjudged to be paid by them.

prison (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

Power to justices to order commitment in the first instance for nonpayment of a penalty or of a sum ordered to be paid.

XXIII. And be it enacted, that in all cases where the statute by virtue of which a conviction for a penalty or compensation, or an order for the payment of money, is made, makes no provision for such penalty or compensation or sum being levied by distress, but directs that if the same be not paid forthwith, or within a certain time therein mentioned, or to be mentioned in such conviction or order, the defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such penalty, compensation, or sum shall be sooner paid, in every such case such penalty, compensation, or sum shall not be levied by distress; but if the defendant do not pay the same, together with costs,

Note to Section 23.—Section 19 applies to cases in which the particular statute under which the proceedings are taken is silent on the subject of levying the penalty or compensation, as well as to other statutes in which the mode of enforcing the penalty, &c. is expressly directed; s. 21 applies to cases where the particular statute under which the proceedings are taken makes no provision for the commitment of the defendant in case no sufficient distress can be found; and s. 22 to cases in which the statute gives no remedy in default of distress; the present section applies to cases in which the particular statute makes no provision for the penalty, &c. being levied by distress, but directs that if it be not paid forthwith or within a certain time, the defendant shall be imprisoned, &c. In every such case the section provides that the penalty, &c. shall not be levied by distress, but that the defendant shall be committed for such time as the statute on which the conviction or order is founded shall direct, unless the penalty, &c. shall be sooner paid. The statute moreover only makes each person included in the conviction liable for the costs of conveying him to gaol; therefore a conviction adjudging each of the persons convicted to be imprisoned until the costs of conveying all to gaol had been paid, is bad. *Reg. v. Cridland*, 3 Jur. (N. S.) 1213; 7 E. & B. 853. The warrant of commitment must be under seal, and it may be issued by any justice having jurisdiction (see s. 29, *post*), and it may be backed if the defendant be not found within the jurisdiction. See s. 3, *ante*.

In *re Fletcher*, 13 L. J. (N. S.), M. C. 16; 1 D. & L. 726, it was held that a warrant of commitment directing the gaoler

if awarded, forthwith, or at the time specified in such conviction or order for the payment of the same, it shall be lawful for the justice or justices making such conviction or order, or for any other justice of the peace for the same county, riding, division, liberty, city, borough or place, to issue his or their warrant of commitment (O. 1, 2), under his or their hand and seal, or hands and seals, requiring the constable or constables to whom the same shall be directed to take and convey such defendant to the house of correction or common gaol for the county, riding, division, liberty, city, borough, or place aforesaid, as the case may be, and there to deliver him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the statute on which such conviction or order is founded as aforesaid shall direct, unless the sum or sums adjudged to be paid, and also the costs and charges of taking and conveying the defendant to prison, if such justice or justices shall think fit so to order, shall be sooner paid.

XXIV. And be it enacted, that where a conviction does not order the payment of any penalty, but that the Power to justices to

to imprison a person for three months, omitting the day of the month on which it was granted, was bad; but this was overruled in the subsequent case of *in re Bowdler*, 17 L. J. R. 243, Q. B.; 12 J. P. 708, where the court held that the term of imprisonment was to be calculated from the time when the prisoner was taken into custody, and not from the date of the order of commitment; therefore a warrant without a date is good, and if the defendant be not immediately apprehended under it, the term of his imprisonment will commence from the time that he is taken. In *ex parte Foulkes*, 11 J. P. 728, the court said that there was no necessity to specify in the order of commitment the day from whence the term of imprisonment was to run, as it must be computed from the day of its execution. See also *Braham v. Joyce*, 19 L. J. (N. S.), Exch. 1; 14 J. P. 39, on the same point.

Note to Section 24.—Under this section it is competent for one justice to issue the warrant of commitment, though

order commitment where the conviction is not for a penalty, nor the order for payment of money, and the punishment is by imprisonment, &c.

defendant be imprisoned, or imprisoned and kept to hard labour, for his offence, or where an order is not for the payment of money, but for the doing of some other act, and directs that in case of the defendant's neglect or refusal to do such act he shall be imprisoned, or imprisoned and kept to hard labour, and the defendant neglects or refuses to do such act, in every such case it shall be lawful for such justice or justices making such conviction or order, or for some other justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of commitment (P. 1, 2), under his or their hand and seal or hands and seals, and requiring the constable or constables to whom the same shall be directed, to take and convey such defendant to the house of correction or common gaol for the same county, riding, division, liberty, city, borough, or place, as the case may be, and there to deliver

the conviction or order upon which it proceeded was required to be made by two justices. See s. 29, *post*. If the defendant be not found within the jurisdiction, and search be made for him, the warrant may be backed in like manner as an ordinary warrant. See s. 3, *ante*. Under s. 18, *ante*, the justices in all cases of summary convictions or of orders may in their discretion award such costs as they may deem just and reasonable. The present section provides for the levying of these costs by distress (P. 3, 4), and in default of distress a warrant of commitment (P. 5) may issue, and the term of imprisonment in that case will commence at the termination of the period of imprisonment mentioned in the original warrant of commitment, unless the costs be paid before that period expires.

The 16 & 17 Vict. c. 30, s. 1, gives jurisdiction to two justices sitting at a place where petty sessions are usually held to convict persons accused of aggravated assaults committed on females and male children under fourteen years of age; and it has been held that a warrant of commitment under that Act, in the general form provided by 11 & 12 Vict. c. 43 (Sch. P. 1), is sufficient without any allegation that the convicting justices were sitting at a place where petty sessions are usually held. *Ex parte Allison*, 24 L. J. R. (N. S.), M. C. 73; 18 J. P. 746. As to a case in which it was held that the form given in the schedule to this Act (P. 1) was not applicable, see *Egginton v. Lichfield, Mayor, &c.*, 24 L. J. Q. B. 360; 1 Jur. (N. S.) 908; 19 J. P. 819.

him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the statute on which such conviction or order is founded as aforesaid shall direct; and in all such cases, where by such conviction or order any sum for costs shall be adjudged to be paid by the defendant to the prosecutor or complainant, such sum may, if the justice or justices shall think fit, be levied by warrant of distress (P. 3, 4), in manner aforesaid, and in default of distress the defendant may, if such justice or justices shall think fit, be committed (P. 5) to the same house of correction or common gaol in manner aforesaid, there to be imprisoned for any time not exceeding one calendar month, to commence at the termination of the imprisonment he shall then be undergoing, unless such sum for costs, and all costs and charges of the said distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice or justices shall think fit so to order, shall be sooner paid.

Costs may be levied by distress, and in default defendant may be committed for a further term.

XXV. And be it enacted, that where a justice or justices of the peace shall upon any such information or complaint as aforesaid adjudge the defendant to be imprisoned, and such defendant shall then be in prison undergoing

Imprisonment for a subsequent offence to commence at expiration of

Note to Section 25.—This assimilates the practice with regard to summary convictions and orders for a subsequent offence to that of the 7 & 8 Geo. 4, c. 28, s. 10, under which the court may award imprisonment for a subsequent offence when a sentence is passed for felony, and the person convicted is already in prison for another offence. It is discretionary with the justices whether or not they will order imprisonment for a second offence to commence from the termination of the imprisonment for the first. But whether they do so or not it is imperative that the warrant be forthwith delivered by the constable to the gaoler to whom it is directed. It may be added that in *Wilkes v. Rex* (in error), 4 Bro. C. P. 367, it was decided that a judgment of imprisonment against a defendant to commence in future, *i. e.* from and after the determination of an imprisonment to which he was before sentenced for another offence, is good in law.

that for
previous
offence.

imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the gaoler to whom the same shall be directed; and it shall be lawful for the justice or justices issuing the same, if he or they shall think fit, to award and order therein and thereby that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such defendant shall have been previously adjudged or sentenced.

If informa-
tion be dis-
missed costs
may be re-
covered by
distress
upon pro-
secutor, &c.
who in de-
fault may be
committed.

XXVI. And be it enacted, that where any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the order for dismissal may be levied by distress (Q. 1) on the goods and chattels of the prosecutor or complainant in manner aforesaid; and in default of distress or payment such prosecutor or complainant may be committed (Q. 2) to the house of correction or common gaol in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such prosecutor or complainant to prison (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

After appeal
against con-
viction or

XXVII. And be it enacted, that after an appeal against any such conviction or order as aforesaid shall

Note to Section 26.—See s. 18 as to the power of justices to award costs to a defendant on the dismissal of an information or complaint; and s. 19 as to the mode of proceeding to recover money from a defendant by distress. Under this section the proceedings are the same as under s. 19, only that the forms are different.

Note to Section 27.—If the particular statute under which the proceedings are taken gives costs to either party, and if upon the appeal the sessions order either party to pay costs, the order of sessions is to direct that they shall be paid to the clerk of the peace, to be by him paid over to the party entitled to them. When the party prosecuting the appeal is not bound by recognizance to pay costs, they may be summarily and expeditiously levied under this section, by the party entitled

be decided, if the same shall be decided in favour of the respondents, the justice or justices who made such conviction or order, or any other justice of the peace of the same county, riding, division, liberty, city, borough, or place, may issue such warrant of distress or commitment as aforesaid for execution of the same, as if no such appeal had been brought; and if upon any such appeal, the court of quarter sessions shall order either party to pay costs, such order shall direct such costs to be paid to the

order justice may issue warrants of distress for execution of the same.

Costs of appeal, how recovered.

to them obtaining the certificate (R.) from the clerk of the peace. Upon production of this certificate to any justice having jurisdiction, he is empowered to grant a warrant of distress (S. 1) to levy them; and in default of distress a warrant of commitment (S. 2). This is a proceeding taken to enforce an order of sessions already made, and therefore no previous summons to the defendant is required; and the mode of proceeding under the warrants is the same as that indicated in ss. 19 & 21, *ante*.

The section provides that where the quarter sessions upon appeal against an order direct either party to pay costs, "such order shall direct such costs to be paid to the clerk of the peace, to be by him paid over to the party entitled;" but a mistake in ordering costs to be paid directly to the party to the appeal instead of to the clerk of the peace, has been held not to be a defect of jurisdiction, but merely erroneous procedure. *Reg. v. Binney*, 1 El. & B. 810; 22 L. J. R. (N. S.), M. C. 127; 17 Jur. 854; 17 J. P. 440.

The section relates only to appeals against summary convictions and orders of justices mentioned in the Act; and therefore the 17 Geo. 2, c. 38, s. 4, empowering the quarter sessions upon an appeal against a poor rate to order costs to be paid to the party in whose favour the appeal is decided, is not affected by the section, neither is it affected by the 12 & 13 Vict. c. 45, s. 5. *Reg. v. Huntley*, 3 El. & B. 172; 23 L. J. R. (N. S.), M. C. 106. A standing order of the court of quarter sessions that costs of appeal should follow the event unless the court should otherwise interfere in any case, may be good as a rule of practice notwithstanding 11 & 12 Vict. c. 43, s. 27, and 12 & 13 Vict. c. 45, s. 5, although it directs such costs to be paid by the parties. It is not necessary that such costs should be taxed in court; the bench may adopt the taxation of the clerk of the peace, and insert it in the order, provided all be done by the court before the end of the sessions. *Read v. Freeman*, 7 Jur. (N. S.) 546; 25 J. P. 87.

The 9 Geo. 4, c. 61, s. 29, is repealed by the 11 & 12 Vict. c. 43, ss. 27 & 36. *Reg. v. Hallier*, 17 A. & E. 229; 21 L. J. R. (N. S.), M. C. 3; 15 J. P. 675.

clerk of the peace of such court, to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any recognizance conditioned to pay such costs, such clerk of the peace or his deputy, upon application of the party entitled to such costs, or of any person on his behalf, and on payment of a fee of one shilling, shall grant to the party so applying a certificate (R.) that such costs have not been paid; and upon production of such certificate to any justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, it shall be lawful for him or them to enforce the payment of such costs by warrant of distress (S. 1) in manner aforesaid, and in default of distress he or they may commit (S. 2) the party against whom such warrant shall have issued in manner hereinbefore mentioned for any time not exceeding three calendar months, unless the amount of such costs, and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such justice or justices shall think fit so to order (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

On payment of penalty, &c. distress not to be levied, or the party, if imprisoned for nonpayment, shall be discharged.

XXVIII. And be it enacted, that in all cases where any person against whom a warrant of distress shall issue as aforesaid shall pay or tender to the constable having the execution of the same the sum or sums in such warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such constable shall cease to execute the same; and in all cases in which any person shall be imprisoned as aforesaid for nonpayment of any penalty or other sum he may pay or cause to be paid to the keeper of the prison in which he shall be so imprisoned the sum in the warrant of commitment mentioned,

Note to Section 28.—As to the application of the penalties by the constable or keeper of the gaol, see s. 31, *post*.

together with the amount of the costs, charges, and expenses (if any) therein also mentioned, and the said keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

XXIX. And be it enacted, that in all cases of summary proceedings before a justice or justices of the peace out of sessions upon any information or complaint as aforesaid it shall be lawful for one justice to receive such information or complaint, and to grant a summons or warrant thereon, and to issue his summons or warrant to compel the attendance of any witnesses, and to do all other necessary acts and matters preliminary to the hearing, even in cases where by the statute in that behalf such information or complaint must be heard and determined by two or more justices; and after the case shall have been so heard and determined one justice may issue all warrants of distress or commitment thereon; and it shall not be necessary that the justice who so acts before or after such hearing shall be the justice or one of the justices by whom the said case shall be heard and determined: Provided always, that

in cases of summary proceedings one justice may issue summons or warrant, &c. and after conviction or order may issue warrant of distress, &c.

Note to Section 29.—As to the hearing upon an information or complaint, see section 12, *ante*, and *note*. As to all other matters this section provides that one justice only may act; and that he may do so, whether or not he be the justice who is to hear, or shall have heard, the case. The proviso to the section is affirmatory of the common law, that when an act is required to be done by two or more justices, they shall all be present and acting together during the whole of the hearing, and until the determination of the case. In *Reg. v. Harwich, JJ.*, 18 L. J. (N. S.) M. C. 106, it was held that where an Act of parliament in one section provided that all penalties imposed by it should be recoverable by information before two justices, and in another section provided that where an information was laid before one justice, such justice should issue a summons for the appearance of the party before two justices, and the form of information given by the schedule to the Act recited the appearance of the informant "before us, two of Her Majesty's justices," it was held that an information exhibited before one justice was sufficient, and that two justices were therefore bound to hear it.

in all cases where by statute it is or shall be required that any such information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices must be present and acting together during the whole of the hearing and determination of the case.

Regulations
as to the

XXX. And be it enacted, that the fees to which any clerk of the peace, clerk of the special sessions, or clerk

Note to Section 30.—With respect to this section see 20 & 21 Vict. c. 43, s. 3, *post*. The statute under which the fees to clerks of the peace, and the justices' clerks, were regulated formerly, was the 26 Geo. 2, c. 14, and 57 Geo. 3, c. 91, which required the tables, after having been settled by the justices in quarter sessions, to be ratified by the judges of assize; the present statute does away with the assent of the judges, and makes the certificate of "Her Majesty's principal secretary of state" alone necessary; but as there are *four* principal secretaries of state, it seems to be dubious which of them was intended. It must, however, be assumed that the secretary of state for the home department is the one who should give the certificate. The question is not material under the present statute, but with reference to the 26 Geo. 2, c. 14, s. 1, it has been held that that Act, which required that the table of fees should be made at a particular quarter sessions, and should be approved "by the justices of the peace at the next succeeding quarter sessions of the peace," had not been complied with by the approval of the table at an adjourned sessions. *Bowman v. Blyth*, 7 El. & Bl. 26; 26 L. J. R. (N. S.), M. C. 57; 22 J. P. 5.

It is provided by the 5 & 6 Vict. c. 109, s. 17, "that the justices of the county, in general or quarter sessions assembled, shall, from time to time, subject to the approval of one of Her Majesty's principal secretaries of state, settle tables of fees and allowances to the clerks to the justices, for the performance of their duties, under this Act, and to the constables for the service of summons and execution of warrants, and for the performance of such other occasional duties which may be required of the said constables, for which the said justices shall think that fees ought to be allowed; and whenever any duty for which any such fee or allowance shall have been settled, and for which the payment is not by law charged upon the county rates, shall have been performed by any clerk, or by any constable appointed under this Act, the amount of the fee or allowance shall be paid by the overseers of the parish in respect of which such fee has become payable, out of any monies in their hands collected

of the petty sessions, or clerk to any justice or justices ^{payment of} out of sessions shall be entitled, shall be ascertained, ^{clerks fees.} appointed, and regulated in manner following; (that is to say,) the justices of the peace at their quarter sessions

for the relief of the poor, upon the order of the justices in petty session assembled, for the division, and under such regulations as shall be made from time to time by the justices in general or quarter session assembled, subject to the approval of the secretary of state." Provision has, however, been subsequently made by the 14 & 15 Vict. c. 55, s. 9, for the payment of clerks of the peace, and clerks to justices, by salaries instead of fees in certain cases, and for the clerks to account for the fees to the treasurer of the county, &c., to be applied in aid of the county rate, or rate in the nature of a county rate. By the same statute it is also enacted (s. 12) "that where any clerk is paid by salary by virtue of any order made under this Act, any justice or justices before whom any proceeding is had, whereon a fee is payable which should be accounted for by such clerk, under this Act, or before whom any person is summoned for nonpayment of any such fee, may remit such fee in whole or in part for poverty, or other reasonable cause, in their or his discretion; and in every such case, the justices or justice by whom any fee is wholly or in part remitted, shall cause an entry to be made, in a book or books to be kept for that purpose by such clerk, of the nature and amount of the several fees so remitted, and of the reason for the remission in such case, which entry shall be signed by the justice, or two or more of the justices authorizing such remission, and shall be a sufficient voucher to discharge the clerk therefrom."

The section leaves it doubtful whether it was intended that there might be two or more concurrent tables of fees in force at the same time; or whether the business for which fees are to be charged must in every case be included in one table, i. e., in the table to be made for each clerk respectively. It is however obviously desirable that in framing a new table of fees under this section, care should be taken to comprise in it all the business in respect of which it is intended that fees shall be charged. After the copy of the table is received by the clerk, it is unlawful for him to receive "any other or greater fee or gratuity for any business or act transacted or done by him as such clerk, than such as is set down in such table or set of tables;" and it is therefore expedient that there should be only one table of fees for each clerk. The justices "shall, from time to time, as they shall see fit respectively, make tables of fees, &c.," to be paid to the several clerks respectively mentioned; and if, after having once done so they see fit to revise the table in respect of any fee, or to

for the several counties, ridings, divisions of counties, and liberties throughout England and Wales, and the council or other governing body of every borough in England and Wales, shall, from time to time, as they shall see fit respectively, make tables of the fees which, in their opinion, should be paid to the clerks of the peace, to the clerks of special and petty sessions, and to the clerks of the justices of the peace within their several jurisdictions, and which said tables respectively, being signed by the chairman of every such court of quarter sessions, or by the mayor or other head officer of any such borough respectively, shall be laid before Her

provide a new fee for any particular business, they should, as it were, re-enact the whole table, with the amendments or additions, and not merely confine the order of court of quarter sessions to the particular amendments or additions. By so doing, they will avoid all question as to the legality of the fees which are to be charged by the clerk, and at the same time relieve the officer from much embarrassment.

As regards the fee to be paid to the clerk to the justices for giving notices of special sessions of the peace, for hearing appeals against poor rates, under the 6 & 7 Will. 4, c. 96, s. 6, see 13 & 14 Vict. c. 101, s. 7, whereby it is enacted "that such fee or remuneration as shall have been, or shall hereafter be settled by the justices of the peace at their respective general quarter sessions, according to the statute in that behalf, *i. e.* the 11 & 12 Vict. c. 43, s. 30, to be paid the clerks to justices of the peace, for the preparing and giving of a notice of a special sessions for this purpose, or in default thereof of a notice of any special sessions, shall be paid by the overseers of each parish comprised within the division for which the special sessions are to be held, and be charged by them upon the poor rate."

The justices cannot in the table direct who is to pay the fees; all that they do is to fix specific fees for the particular services to be rendered by the clerk. The question of the payment of the fees must be settled by the particular rule of law applicable to each case as it arises.

It would seem that the clerk may recover his fees by action in the county court against the party who commenced the proceedings. See *Wray v. Chapman*, 14 J. P. 95; *Drew v. Harris*, 14 J. P. 26; *Ex parte Reddish*, 20 J. P. 101. With regard to the rates of allowances of payments to prosecutors and witnesses, see the rules and regulations in that behalf of secretary Sir George Grey, in the appendix.

Majesty's principal secretary of state; and it shall be lawful for such secretary of state, if he thinks fit, to alter such table or tables of fees, and to subscribe a certificate or declaration that such fees are proper to be demanded and received by the several clerks of the peace, clerks of special sessions and petty sessions, and the clerks to the several justices of the peace throughout England and Wales; and such secretary of state shall cause copies of such table or set of tables of fees to be transmitted to the several clerks of the peace throughout England and Wales to be by them distributed to the several clerks of special sessions and petty sessions and to the clerks to the justices within their several districts respectively; and if after such copy shall be received by such clerks or clerk he or they shall demand and receive any other or greater fee or gratuity for any business or act transacted or done by him as such clerk than such as is set down in such table or set of tables, he shall forfeit for every such demand or receipt the sum of twenty pounds, to be recovered by action of debt in any of the superior courts of law at Westminster, by any person who will sue for the same: Provided always, that until such table or set of tables shall be framed and confirmed and distributed as aforesaid, it shall be lawful for such clerk or clerks to demand and receive such fees as they are now by any rule or regulation of a court of quarter sessions or otherwise authorized to demand and receive.

XXXI. And be it enacted, that in every warrant of distress to be issued as aforesaid the constable or other Regulations as to whom penalties,

Note to Section 31.—This enactment has secured greater uniformity of practice, as well as regularity, in accounting for penalties, &c., under summary convictions and orders, than was previously the case. It provides—

1. For payment of money levied by a constable under a warrant of distress.
2. For the application of money paid to a constable under a conviction or order of justices.
3. For the application of money paid to the gaoler or

&c. to be
paid.

person to whom the same shall be directed shall be thereby ordered to pay the amount of the sum to be levied thereunder unto the clerk of the division in which the justice or justices issuing such warrant shall usually act; and if any person convicted of any penalty, or ordered by a justice or justices of the peace to pay any sum of money, shall pay the same to any constable or

keeper of a prison by a prisoner therein, under a conviction or order of justices.

4. And for the application by the clerk of the justices of the monies so paid to him by any constable or gaoler, &c.

1. To the person or persons to whom the same are respectively to be paid according to the directions of the statute on which the information or complaint in that behalf shall have been framed.

2. If such statute contain no direction in that behalf, to the treasurer of the county, &c.

The payments so made to the clerk to the justices, and the application of the money, and the monies received and paid by every gaoler, &c., are to be entered in a book (T.), a fair copy of which is to be laid before the justices once a month, and afterwards sent to the clerk of the peace.

With regard to the right of the clerk to retain books containing entries of magisterial business, the following case may be cited:—The clerk to the justices of a petty sessional division was accustomed to make private entries in the books in which he entered the magisterial business of the division. Upon his decease these books were taken possession of by his executor, who refused to deliver them up to the successor of the deceased, upon the ground that they were purchased by the deceased, contained items of private business, and because he had a lien upon them for fees due and unpaid. Upon a rule for a *mandamus* to compel him to deliver them up, it was held that he was bound to do so. *Reg. v. Rastrick*, 31 L. T. 220; 22 J. P. 386.

With regard to the remission of penalties, it is enacted by the 22 Vict. c. 32, that "it shall be lawful for Her Majesty (or in Ireland for the lord lieutenant or other chief governor or governors of Ireland) to remit, in whole or in part, any sum of money which, under any Act now in force or hereafter to be passed, may be imposed as a penalty or forfeiture on a convicted offender, although such money may be, in whole or in part, payable to some party other than the crown, and to extend the royal mercy to any person who may be imprisoned for nonpayment of any sum of money so imposed, although the same may be, in whole or in part, payable to some party other than the crown."

other person, such constable or other person shall forthwith pay the same to such clerk; and if any person committed to prison upon any conviction or order as aforesaid for nonpayment of any penalty, or of any sum thereby ordered to be paid, shall desire to pay the same, and costs, before the expiration of the time for which he shall be so ordered to be imprisoned by the warrant for his commitment, he shall pay the same to the gaoler or keeper of the prison in which he shall be so imprisoned, and such gaoler or keeper shall forthwith pay the same to the said clerk; and all sums so received by the said clerk shall forthwith be paid by him to the party or parties to whom the same respectively are to be paid, according to the directions of the statute on which the information or complaint in that behalf shall have been framed; and if such statute shall contain no such directions for the payment thereof to any person or persons, then such clerk shall pay the same to the treasurer of the county, riding, division, liberty, city, borough, or place for which such justice or justices shall have acted, and for which such treasurer shall give him a receipt without stamp; and every such clerk, and every such gaoler or keeper of a prison, shall keep a true and exact account of all such monies received by him, of whom and when received, and to whom and when paid, in the form (T.) in the schedule to this Act annexed, or to the like effect, and shall once in every month render a fair copy of every such account unto the justices who shall be assembled at the petty sessions for the division in which such justice or justices aforesaid shall usually act, to be holden on or next after the first day of every month, under the penalty of forty shillings, to be recovered by distress in manner aforesaid; and the said clerk shall send or deliver every return so made by him as aforesaid to the clerk of the peace for the county, riding, division, liberty, city, borough, or place within which such division shall be situate, at such times as the court of quarter sessions for the same shall order in that behalf.

Clerks to keep accounts of all monies received, &c., in the form in schedule to this Act, and render the same to the justices at sessions.

Forms in the
schedule
deemed
valid.

XXXII. And be it enacted, that the several forms in the schedule to this Act contained, or forms to the like effect, shall be deemed good, valid, and sufficient in law.

Metropolitan
police mag-
istrates and
stipendiary

XXXIII. And be it enacted, that any one of the magistrates appointed or hereafter to be appointed to act at any of the police courts of the metropolis, and sitting

Note to Section 32.—The statute does not enact that these forms only shall be used, and that no others shall be valid. It will, however, be convenient to adhere to them in all ordinary cases; if any very material departure from them be made, it should be done with great caution; and in very special cases only on the advice of counsel. In *Goss v. Jackson*, 3 Esp. 198, it was held that where an Act of parliament gives the form of conviction for any offence, that form must be followed; and a warrant granted on a conviction drawn up in any other form is illegal, and the justices and those acting under it are trespassers; but see *Egginton v. Lichfield*, cited *ante*, p. 128.

Note to Section 33.—As regards the metropolis, the 2 & 3 Vict. c. 71, s. 13, enacts, that where any act is directed or authorized to be done by any justice or justices of the peace belonging to any of the metropolitan police courts, or by any justice or justices residing in or near or next the parish or place where any offence or other matter cognizable before him or them shall be committed or shall arise, the same jurisdiction may be exercised by one of the said magistrates in any of the said courts; and further by s. 14, "That it shall be lawful for any one of the said magistrates appointed, or hereafter to be appointed, to do alone any act at any of the said courts, or at any place where Her Majesty shall order any such court to be holden within the limits of the metropolitan police district for the time being, which by any law now in force, or by any law not containing an express enactment to the contrary, hereafter to be made, is or shall be directed to be done by more than one justice: Provided always, that none of the said magistrates shall be competent to act as a justice of the peace, either alone or with any other justice or justices, in anything which is to be done at a special or petty sessions of all the justices acting in the division, or by the justices of any of the said counties or liberties in quarter sessions assembled." It has been decided that county justices who, acting under the 3 & 4 Vict. c. 84, s. 6, convict a party of an offence under 2 & 3 Vict. c. 71, are entitled to the privileges of a metropolitan police magistrate under the last-mentioned statute; and therefore to the same limitation of three months upon any action against them which a police magistrate would have had. *Barnett v. Cox*, 16 L. J. (N. S.) M. C. 27; 11 Jur. 118; 11 J. P. 118.

at a police court within the metropolitan police district, and every stipendiary magistrate appointed or to be appointed for any other city, town, liberty, borough, or place, and sitting at a police court or other place appointed

magistrates
in other
places may
act alone.

By the 21 & 22 Vict. c. 73, "to amend the Law concerning the Powers of Stipendiary Magistrates and Justices of the Peace in certain Cases," it is enacted:—

"I. Every stipendiary magistrate appointed for any city, town, liberty, borough, place, or district, sitting at a police court or other place appointed in that behalf, shall have power to do alone any act and to exercise alone any jurisdiction which under any law now in force, or under any law not containing an express enactment to the contrary hereafter to be made, may be done or exercised by two justices of the peace, and all the provisions of any Act of parliament auxiliary to the jurisdiction of such justices shall be applicable also to the jurisdiction of such stipendiary magistrate.

"II. The authority and jurisdiction given to a stipendiary magistrate by the enactment hereinbefore contained shall extend and apply as well to the cases where the Act or jurisdiction is or hereafter may be expressly required to be done or exercised by justices sitting or acting in petty sessions as to other cases, and any enactment authorizing or requiring persons to be summoned or to appear at such petty sessions shall in the like cases authorize or require persons to be summoned or to appear before the stipendiary magistrate having jurisdiction at the police court or other place appointed for his sitting.

"III. Nothing hereinbefore contained shall extend to acts to be done or jurisdiction to be exercised at the general or quarter sessions of the peace, or to acts or jurisdiction expressly required (by any existing or future law) to be done or exercised at special sessions, or to any act or jurisdiction in relation to the grant or transfer of any licence.

"IV. Nothing hereinbefore contained shall extend, alter, or affect in any manner the powers or authorities of the magistrates appointed or to be appointed to the police courts in the metropolitan police district."

"VI. So much of section eighteen of the Act of the session holden in the second and third years of Her Majesty, chapter seventy-one, as makes void (except in the cases therein excepted) 'every summons or warrant issued by any justice of the peace of the counties of Middlesex, Surrey, Kent, Essex, or Hertfordshire respectively, requiring any person residing within the metropolitan police district to appear at any place without the said district to answer any information or complaint touching any matter arising within the said district,' shall not apply to any such summons or warrant in respect

Nothing
to affect

in that behalf, shall have full power to do alone whatsoever is authorized by this Act to be done by any one or more justice or justices of the peace; and that the several forms hereinafter mentioned may be varied, so far as it may be necessary to render them applicable to the police courts aforesaid, or to the court or other place of sitting of such stipendiary magistrate; and that nothing in this Act contained shall alter or affect in any manner what-

of any matter arising within any part of the said district not assigned for the time being to any of the police courts of the metropolis.

“VII. In every case in which any person shall be brought before any police magistrate, or any two magistrates acting within the said metropolitan police district, for any place within which no police court shall have been established, for any offence under the twenty-fourth section of an Act of the session holden in the second and third years of Her Majesty, chapter seventy-one, such police magistrate, or such magistrates acting in and for such place, may hear and determine the matter, and in case of conviction may commit the offender to be imprisoned in any gaol or house of correction in and for the county, liberty, or place in which such offence shall have been committed, though not within the said metropolitan police district, and with or without hard labour, for any time not exceeding two calendar months, and in their discretion without the infliction of any fine in default of payment of which such imprisonment might be adjudged.”

“XIII. It shall be lawful for any stipendiary magistrate, with the approval of the secretary of state for the home department, to appoint a deputy, who shall have practised as a barrister-at-law for at least seven years, to act for him for any time or times not exceeding six weeks in any consecutive period of twelve calendar months: and every deputy so appointed, during the time for which he shall be so appointed, shall have all the powers and perform all the duties of the stipendiary magistrate for whom he shall have been so appointed.

“XIV. It shall be lawful for Her Majesty to appoint any stipendiary magistrate acting for any city, town, liberty, borough, or place in England or Wales to be a magistrate of any one of the police courts of the metropolitan police district, although such stipendiary magistrate shall not have practised as a barrister during at least seven years then last past, nor shall have practised as a barrister for four years then last past having previously practised as a certificated special pleader for three years below the bar.”

soever any of the powers, provisions, or enactments contained in Act passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled, "An Act for improving the Police in and near the Metropolis," or in an Act passed in the third year of the reign of Her present Majesty, intituled "An Act for further improving the Police in and near the Metropolis," or in an Act passed in the same year of the reign of Her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," or in an Act passed in the fourth year of the reign of Her present Majesty, intituled "An Act for better defining the Powers of Justices within the Metropolitan Police District."

powers, &c. contained in 10 G. 4, c. 44, 2 & 3 Vict. c. 47, 2 & 3 Vict. c. 71, and 3 & 4 Vict. c. 84.

XXXIV. And be it enacted, that it shall be lawful for the lord mayor of the city of London, or for any alderman of the said city, for the time being, sitting at the Mansion House or Guildhall Justice Rooms in the said city, to do alone any act, at either of the said justice rooms, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice; and that nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in an Act passed in the third year of the reign of Her present Majesty, intituled "An Act for regulating the Police in the City of London."

The Lord Mayor, or any alderman of London, may act alone.

Nothing to affect powers, &c. contained in 2 & 3 Vict. c. 84.

XXXV. And be it enacted, that nothing in this Act shall extend or be construed to extend to any warrant or

To what this Act shall not extend.

Note to Section 34.—It has been decided that an alderman of London sitting at the Mansion House and Guildhall, has not (by the 11 & 12 Vict. c. 43, s. 34, and the 3 & 4 Vict. c. 84, s. 6,) the same power as a police magistrate has (by the 3 & 4 Vict. c. 84, s. 13,) to send a constable to view deserted premises, and to deliver up possession, under 11 Geo. 2, c. 19, s. 16. *Edwards v. Hodges*, 15 C. B. 477; 24 L. J. (N. S.) M. C. 81; 1 Jur. (N. S.) 91; 19 J. P. 102.

Note to Section 35.—The exception in this section of "any information or complaint, or other proceeding under or by

order for the removal of any poor person who is or shall become chargeable to any parish, township, or place; nor to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person; nor to any information or complaint or other proceeding under or by virtue of any of the statutes relating to Her Majesty's revenue of excise or customs, stamps, taxes, or post office; nor shall anything in this Act extend or be construed to extend to any complaints, orders, or warrants in matters of bastardy made against the putative father of any bastard child, save and except such of the provisions aforesaid as relate to the backing of warrants for compelling the appearance of such putative father or warrants of distress, or to the levying of sums ordered to be paid, or to the imprisonment of a defendant for nonpayment of the same; nor shall anything in this Act extend to any proceedings under the Acts of parliament regulating or otherwise relating to the labour of children and young persons in mills or factories.

virtue of any of the statutes relating to Her Majesty's revenue of excise, &c.," does not apply where the particular information or complaint proceeds upon a section of a statute not relating to the revenue of excise, &c., although there are other sections in the statutes which do relate to the revenue of excise, &c. Therefore a conviction under the 4 & 5 Will. 4, c. 85, s. 8, for signing a false certificate for the purpose of obtaining a licence for the sale of beer, drawn up according to the form provided in schedule (I. 1) of the 11 & 12 Vict. c. 43, is valid. The word "statutes" in s. 35 is to be read as if it were "enactments." *Reg. v. Bakewell*, 7 El. & Bl. 848; 26 L. J. (N. S.), M. C. 150; 3 Jur. (N. S.) 1003; 21 J. P. 357.

In *Reg. v. Tiffeld*, 22 J. P. 782, it was decided that justices acting for adjoining counties could not act in one for the other in respect of any matter excluded from the operation of s. 35 of the 11 & 12 Vict. c. 43; and consequently that an order of removal made under such circumstances was bad. Again, an order for payment of costs of maintenance under an order of removal does not come within the exemption in this section, and therefore the limitation in s. 11 applies. *Collumpton v. Brighton*, 3 L. T. (N. S.) 318; S. C. nom. *Hill v. Thorncroft*, 30 L. J. M. C. 52; 7 Jur. (N. S.) 163; 24 J. P. 741.

XXXVI. And be it enacted, that the following statutes and parts of statutes shall from and after the day on which this Act shall commence and take effect, be and the same are hereby repealed; (that is to say,) so much of a certain Act of parliament made and passed in the eighteenth year of the reign of Her Majesty Queen Elizabeth, intituled "An Act to redress Disorders in Common Informers," as relates to exhibiting an information and pursuing the same in person, and not by any attorney or deputy; and so much of a certain other Act made and passed in the thirty-first year of the reign of Her said Majesty Queen Elizabeth, intituled "An Act concerning Informers," as relates to the time limited for exhibiting an information for a forfeiture upon any penal statute; and so much of a certain other Act made and passed in the twenty-seventh year of the reign of His Majesty King George the Second, intituled "An Act for the more easy and effectual proceeding upon Distresses to be made by Warrants of Justices of the Peace," as relates to such distresses; and so much of an Act made and passed in the eighteenth year of His late Majesty King George the Third, intituled "An Act for the Payment of Costs to Parties on Complaints determined before Justices of the Peace out of Sessions, for the Payment of the Charges of Constables in certain Cases, and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny or other Felony," as relates to such costs on the said complaints; and so much of a certain other Act made and passed in the thirty-third year of the reign of His said late Majesty King George the Third, intituled "An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers for Neglect of Duty, and on Masters of Apprentices for Ill-usage of such their Apprentices, and also to make provision for the Execution of Warrants of Distress granted by Magistrates," as

After commencement of this Act the following statutes and parts of statutes repealed: 18 Eliz. c. 5, s. 1, in part.

31 Eliz. c. 5, s. 5, in part.

27 G. 2, c. 20, ss. 1, 2.

18 G. 3, c. 19, ss. 1, 2, 3, 5.

33 G. 3, c. 55, s. 3.

Note to Section 36.—Section 27 and this section repeal the 29th section of 9 Geo. 4, c. 61. *Reg. v. Hellier*, 21 L. J. R. (N. S.), M. C. 3; 15 J. P. 675.

relates to the executions of such warrants of distress ; and a certain other Act made and passed in the third year of the reign of His late Majesty King George the Fourth, intituled "An Act to facilitate Summary Proceedings before Justices of the Peace and others ;" and a certain other Act made and passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act for the more effectual Recovery of Penalties before Justices and Magistrates on Conviction of Offenders, and for facilitating the Execution of Warrants by Constables ;" and so much of a certain Act made and passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act for enabling Persons indicted for Felony to make their Defence by Counsel or Attorney," as relates to the right of persons accused, in cases of summary convictions, to make their defence, and to have all witnesses examined and cross-examined by counsel or attorney ; and all other Act or Acts or parts of Acts which are inconsistent with the provisions of this Act save and except so much of the said several Acts as repeal any other Acts or parts of Acts, and also except as to proceedings now pending to which the same or any of them are applicable.

Act to extend to Berwick-upon-Tweed, but

XXXVII. And be it enacted, that the town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act ; but that nothing in this

Note to Section 37.—The declaration that the town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act, is unnecessary, for it is part of the realm of England, and is bound by all Acts of parliament applying to England, whether it be specially named in them or otherwise. It was enacted by the 20 Geo. 2, c. 42, s. 3, "that in all cases where the kingdom of England, or that part of Great Britain called England, hath been, or shall be mentioned in any Act of parliament, the same has been and shall from henceforth be deemed and taken to comprehend and include the dominion of Wales and the town of Berwick-upon-Tweed ;" but Lord Mansfield, in *Rex v. Cowle*, 2 Burr. 834, showed that that Act was entirely superfluous. Before the union (with Scotland), he said, Berwick was bound by every

Act shall extend or be construed to extend to Scotland or Ireland, or to the Isles of Man, Jersey, Guernsey, Alderney, or Sark, save and except the several provisions respecting the backing of warrants contained in an Act of parliament passed in this present session, intituled "An Act to facilitate the Performance of the Duties of Justices of Sessions within England and Wales with respect to Persons charged with Indictable Offences," and incorporated into this Act, as aforesaid.

not to Scotland, Ireland, &c., except as to backing of warrants under 11 & 12 Vict. c. 42.

XXXVIII. And be it enacted, that this Act shall commence and take effect from the second day of October in the year of our Lord one thousand eight hundred and forty-eight.

Commencement of Act.

XXXIX. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of parliament.

Act may be amended, &c.

English general Act of parliament, in like manner as Wales was bound, and that was as being part of the realm of England. Where it is particularly named in Acts of parliament, that is superfluous; and so also is the naming of Wales. If it was not part of England before the union, it is now no part of Great Britain, for only England and Scotland are united. It is bound by all general laws since the union; and further, where provisions are made for that part of Great Britain called England, Wales and Berwick-upon-Tweed are comprehended under that description. Further on this point see note to 11 & 12 Vict. c. 42, s. 32, *ante*, and the cases and authorities there cited.

SCHEDULE.

(A.)

Summons to the Defendant upon an Information or Complaint.

To A. B. of —, Labourer.

Whereas information hath this day been laid [or complaint hath this day been made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that you [here state shortly the matter of the information or complaint]: These are therefore to command you, in Her Majesty's name, to be and appear on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as may then be there, to answer to the said information [or complaint], and to be further dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L. S.)

(B.)

Warrant where the Summons is disobeyed.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas on — last past information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said county of —, for that A. B. [&c., as in the summons]:

And whereas I then issued my summons unto the said *A. B.*, commanding him, in Her Majesty's name, to be and appear on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as might then be there, to answer to the said information [*or* complaint], and to be further dealt with according to law: And whereas the said *A. B.* hath neglected to be or appear at the time and place so appointed in and by the said summons, although it hath now been proved to me upon oath that the said summons hath been duly served upon the said *A. B.*: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and to bring him before some one or more of Her Majesty's justices of the peace in and for the said county, to answer to the said information [*or* complaint], and to be further dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(C.)

Warrant in the first instance.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas information hath this day been laid before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [county] of —, for that *A. B.* [*here state shortly the matter of the information*]; and oath being now made before me substantiating the matter of such information, These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and to bring him before some one or more of Her Majesty's justices of the peace in and for the said county, to answer to the said information, and to be further dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(D.)

Warrant of Committal for safe Custody during an Adjournment of the Hearing.

To *W. T.*, constable of —, and to the keeper of the [house of correction] at —.

Whereas on — last past information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons]: And whereas the hearing of the same is adjourned to the — day of — instant, at — o'clock in the forenoon, at —, and it is necessary that the said *A. B.* should in the meantime be kept in safe custody: These are therefore to command you the said constable, in Her Majesty's name, forthwith to convey the said *A. B.* to the [house of correction] at —, and there deliver him into the custody of the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said *A. B.* into your custody in the said house of correction, and there safely keep him until the — day of — instant, when you are hereby required to convey and have him the said *A. B.*, at the time and place to which the said hearing is so adjourned as aforesaid, before such justices of the peace for the said [county] as may then be there, to answer further to the said information [or complaint], and to be further dealt with according to law.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(E.)

Recognizance for the Appearance of the Defendant where the Case is adjourned, or not at once proceeded with.

Be it remembered, that on —, *A. B.* of —, labourer, and *L. M.* of —, grocer, personally came before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, and severally acknowledged themselves to owe to our sovereign Lady the Queen the several sums following;

(that is to say,) the said *A. B.* the sum of — and the said *L. M.* the sum of —, of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said *A. B.* shall fail in the condition endorsed.

Taken and acknowledged, the day and }
year first above mentioned, at —, before }
me, J. S.

The condition of the within-written recognizance is such, that if the said *A. B.* shall personally appear on the — day of — instant at — o'clock in the forenoon, at —, before such justices of the peace for the said [county] as may then be there, to answer further to the information [or complaint] of *C. D.* exhibited against the said *A. B.*, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

*Notice of such Recognizance to be given to the
Defendant and his Surety.*

Take notice, that you *A. B.* are bound in the sum of —, and you *L. M.* in the sum of —, that you *A. B.* appear personally on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as shall then be there, to answer further to a certain information [or complaint] of *C. D.*, the further hearing of which was adjourned to the said time and place, and unless you appear accordingly the recognizance entered into by you *A. B.*, and by *L. M.* as your surety, will forthwith be levied on you and him.

Dated this — day of —, 186 .

J. S.

(F.)

*Certificate of Non-appearance to be endorsed on the
Defendant's Recognizance.*

I hereby certify, that the said *A. B.* hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within-written recognizance is forfeited.

J. S.

(G. 1.)

*Summons of a Witness.*To *E. F.* of — in the said [county] of —.

Whereas information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c., as in the summons*]; and it hath been made to appear to me upon [oath] that you are likely to give material evidence on behalf of the [prosecutor, or complainant, or defendant] in this behalf: These are therefore to require you to be and appear on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as may then be there, to testify what you shall know concerning the matter of the said information [or complaint].

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(G. 2.)

Warrant where a Witness has not obeyed a Summons.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c., as in the summons*]; and it having been made to appear to me upon oath that *E. F.* of — in the said county, *labourer*, was likely to give material evidence on behalf of the [prosecutor], I did duly issue my summons to the said *E. F.*, requiring him to be and appear on —, at — o'clock in the forenoon of the same day, at —, before such justices of the peace for the said county as might then be there, to testify what he should know concerning the said *A. B.*, or the matter of the said information [or complaint]: And whereas proof hath this day been made before me upon oath of such summons having been duly served upon the said *E. F.*, and of a reasonable sum having been paid [or tendered to him for his costs and expenses in that be-

half: And whereas the said *E. F.* hath neglected to appear at the time and place appointed by the said summons, and no just excuse hath been offered for such neglect: These are therefore to command you to take the said *E. F.*, and to bring and have him on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as may then be there, to testify what he shall know concerning the matter of the said information [*or complaint*.]

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid. J. S. (L.S.)

(G. 3.)

Warrant for a Witness in the first instance.

To the constable of — and to all other peace officers in the [*county*] of —.

Whereas information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*] of —, for that [*&c. as in the summons*]; and it being made to appear before me upon oath that *E. F.* of — [*labourer*] is likely to give material evidence on behalf of the [*prosecutor*] in this matter, and it is probable that the said *E. F.* will not attend to give evidence without being compelled so to do: These are therefore to command you to bring and have the said *E. F.* before me, on —, at — o'clock in the forenoon, at —, or before such other justices of the peace for the said county as may then be there, to testify what he shall know concerning the matter of the said information [*or complaint*].

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid. J. S. (L.S.)

(G. 4.)

Commitment of a Witness for refusing to be sworn or to give Evidence.

To *W. T.*, constable of — in the said [*county*] of —, and to the keeper of the [*house of correction*] at —.

Whereas information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of

(G. 1.)

*Summons of a Witness.*To *E. F.* of — in the said [county] of —.

Whereas information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons]; and it hath been made to appear to me upon [oath] that you are likely to give material evidence on behalf of the [prosecutor, or complainant, or defendant] in this behalf: These are therefore to require you to be and appear on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as may then be there, to testify what you shall know concerning the matter of the said information [or complaint].

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(G. 2.)

Warrant where a Witness has not obeyed a Summons.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons]; and it having been made to appear to me upon oath that *E. F.* of — in the said county, labourer, was likely to give material evidence on behalf of the [prosecutor], I did duly issue my summons to the said *E. F.*, requiring him to be and appear on —, at — o'clock in the forenoon of the same day, at —, before such justices of the peace for the said county as might then be there, to testify what he should know concerning the said *A. B.*, or the matter of the said information [or complaint]: And whereas proof hath this day been made before me upon oath of such summons having been duly served upon the said *E. F.*, and of a reasonable sum having been paid [or tendered to him for his costs and expenses in that be-

half: And whereas the said *E. F.* hath neglected to appear at the time and place appointed by the said summons, and no just excuse hath been offered for such neglect: These are therefore to command you to take the said *E. F.*, and to bring and have him on —, at — o'clock in the forenoon, at —, before such justices of the peace for the said county as may then be there, to testify what he shall know concerning the matter of the said information [*or complaint*].

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(G. 3.)

Warrant for a Witness in the first instance.

To the constable of — and to all other peace officers in the [*county*] of —.

Whereas information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*] of —, for that [*&c. as in the summons*]; and it being made to appear before me upon oath that *E. F.* of — [*labourer*] is likely to give material evidence on behalf of the [*prosecutor*] in this matter, and it is probable that the said *E. F.* will not attend to give evidence without being compelled so to do: These are therefore to command you to bring and have the said *E. F.* before me, on —, at — o'clock in the forenoon, at —, or before such other justices of the peace for the said county as may then be there, to testify what he shall know concerning the matter of the said information [*or complaint*].

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(G. 4.)

Commitment of a Witness for refusing to be sworn or to give Evidence.

To *W. T.*, constable of — in the said [*county*] of —, and to the keeper of the [*house of correction*] at —.

Whereas information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of

the peace in and for the said [county] of —, for that [*&c.*, as in the summons]; and one *E. F.* now appearing before me such justice as aforesaid on —, at —, and being required by me to make oath or affirmation as a witness in that behalf, hath now refused so to do [*or being now here duly sworn as a witness in the matter of the said information or complaint, doth refuse to answer certain questions concerning the premises which are now here put to him*], without offering any just excuse for such his refusal: These are therefore to command you the said constable to take the said *E. F.*, and him safely convey to the [*house of correction*] at — aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [*house of correction*] to receive the said *E. F.* into your custody in the said [*house of correction*], and there imprison him for such his contempt for the space of — days, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(H.)

Warrant to remand a Defendant when apprehended.

To *W. T.*, constable of —, and to the keeper of the [*house of correction*] at —.

Whereas information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c.*, as in the summons or warrant]: And whereas the said *A. B.* hath been apprehended under and by virtue of a warrant upon such information [*or complaint*], and is now brought before me as such justice as aforesaid: These are therefore to command you the said constable, in Her Majesty's name, forthwith to convey the said *A. B.* to the [*house of correction*] at —, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you the said keeper to receive the said *A. B.* into your custody in the said [*house of correction*], and there safely keep him until — next, the — day of — instant, when you are

hereby commanded to convey and have him at —, at — o'clock in the forenoon of the same day, before such justices of the peace of the said [county] as may then be there, to answer to the said information [or complaint], and to be further dealt with according to law.

Given under my hand and seal, this — day of — in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(I. 1.)

Conviction for a Penalty to be levied by Distress, and in default of sufficient Distress, Imprisonment.

— } Be it remembered, that on the — day of
to wit. { —, in the year of our Lord —, at —,
in the said [county], A. B. is convicted before the under-
signed, [one] of Her Majesty's justices of the peace for
the said county, for that [he the said A. B., &c., stating
the offence, and the time and place when and where com-
mitted]; and I adjudge the said A. B. for his said offence
to forfeit and pay the sum of — [stating the penalty,
and also the compensation, if any,] to be paid and applied
according to law, and also to pay to the said C. D. the
sum of — for his costs in this behalf; and if the said
several sums be not paid forthwith [or on or before —
next] * I order that the same be levied by distress and
sale of the goods and chattels of the said A. B., and in
default of sufficient distress* I adjudge the said A. B.
to be imprisoned in the [house of correction] at — in
the said county [there to be kept to hard labour] for the
space of —, unless the said several sums, and all costs
and charges of the said distress, [and of the commitment
and conveying of the said A. B. to the said house of cor-
rection] shall be sooner paid.

Given under my hand and seal, the day and year first
above mentioned, at —, in the [county] aforesaid.

J. S. (L.S.)

* Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks*, say, "then, inasmuch as it hath now been made to appear to me [that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," or, "that the said A. B. hath no goods or chattels whereon to levy

the said sums by distress], I adjudge," &c., *as above, to the end.*

(I. 2.)

Conviction for a Penalty, and in default of Payment, Imprisonment.

— } Be it remembered, that on the — day of —, to wit. } in the year of our Lord —, at —, in the said [county] *A. B.* is convicted before the undersigned, [one] of Her Majesty's justices of the peace for the said county, for that [he the said *A. B.*, &c., *stating the offence, and the time and place when and where it was committed*]; and I adjudge the said *A. B.* for his said offence to forfeit and pay the sum of — [*stating the penalty, and the compensation, if any*], to be paid and applied according to law, and also to pay to the said *C. D.* the sum of — for his costs in this behalf; and if the said several sums be not paid forthwith [*or on or before — next*] I adjudge the said *A. B.* to be imprisoned in the [*house of correction*] at —, in the said [county], [*and there to be kept to hard labour*] for the space of —, unless the said several sums [and the costs and charges of conveying the said *A. B.* to the said house of correction] shall be sooner paid.

Given under my hand and seal, the day and year first above mentioned, at —, in the [county] aforesaid.

J. S. (L.S.)

(I. 3.)

Conviction when the Punishment is by Imprisonment, &c.

— } Be it remembered, that on the — day of to wit. } —, in the year of our Lord —, in the said [county] *A. B.* is convicted before the undersigned, [one] of Her Majesty's justices of the peace for the said county, for that [he the said *A. B.*, &c., *stating the offence, and the time and place when and where committed*]; and I adjudge the said *A. B.* for his said offence to be imprisoned in the [*house of correction*], at —, in the said [county] [*and there kept to hard labour*] for the space of —, and I also adjudge the said *A. B.* to pay the said *C. D.* the sum of — for his costs in this behalf; and if the said sum for costs be not paid forthwith [*or on or before — next*] then * I order that the said sum be levied by distress and sale of the goods and chattels of the said *A. B.*; and in default of sufficient distress in that behalf* I adjudge the said *A. B.* to be imprisoned

in the said house of correction [*and there kept to hard labour*] for the space of —, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my hand and seal, the day and year first above mentioned, at —, in the county aforesaid.

J. S. (L.S.)

* *Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks**, say, "inasmuch as it hath now been made to appear to me [that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," or "that the said A. B. hath no goods and chattels whereon to levy the said sum for costs by distress, I adjudge," &c.*

(K. 1.) (a)

Order for Payment of Money to be levied by Distress, and in default of Distress, Imprisonment.

— } Be it remembered, that on — complaint was
to wit. } made before the undersigned, [one] of Her
Majesty's justices of the peace in and for the said
[county] of —, for that [*stating the facts entitling the
complainant to the order, with the time and place when
and where they occurred*]; and now at this day, to wit,
on —, at —, the parties aforesaid appear before me
the said justice, [*or the said C. D. appears before me
the said justice, but the said A. B., although duly called,
doth not appear by himself, his counsel or attorney, and
it is now satisfactorily proved to me on oath that the said
A. B. has been duly served with the summons in this
behalf, which required him to be and appear here at this
day before such justices of the peace for this said county
as should now be here, to answer the said complaint, and
to be further dealt with according to law*]; and now,
having heard the matter of the said complaint, I do
adjudge the said A. B. [to pay to the said C. D. the sum
of — forthwith, *or, on or before — next, or as the
statute may require*], and also to pay to the said C. D.
the sum of — for his costs in this behalf; and if the
said several sums be not paid forthwith [*or on or before*

(a) With respect to this form see *Labalmondière v. Frost*, 23 J. P. 598, *ante*, p. 112.

— next] * I hereby order that the same be levied by distress and sale of the goods and chattels of the said *A. B.* and in default of sufficient distress in that behalf* I adjudge the said *A. B.* to be imprisoned in the [house of correction] at —, in the said [county], [and there kept to hard labour] for the space of —, unless the said several sums, and all costs and charges of the said distress [and of the commitment and conveying of the said *A. B.* to the said house of correction], shall be sooner paid.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

* Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks*, say, "then, inasmuch as it hath now been made to appear to me [that the issuing of a warrant of distress in this behalf would be ruinous to the said *A. B.* and his family," or "that the said *A. B.* hath no goods or chattels whereon to levy the said sums by distress], I adjudge," &c.

(K. 2.)

Order for Payment of Money, and in default of Payment, Imprisonment.

— } Be it remembered that on — complaint was to wit. } made before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [stating the facts entitling the complainant to the order, with the time and place when and where they occurred]; and now at this day, to wit, on —, at —, the parties aforesaid appear before me the said justice [or the said *C. D.* appears before me the said justice, but the said *A. B.*, although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said *A. B.* has been duly served with the summons in this behalf, which required him to be and appear here on this day before such justices of the peace for the said county as should now be here, to answer the said complaint, and to be further dealt with according to law]; and now having heard the matter of the said complaint, I do adjudge the said *A. B.* [to pay to

the said *C. D.* the sum of — forthwith, or on or before — next, or as the statute may require], and also to pay to the said *C. D.* the said sum of — for his costs in this behalf; and if the said several sums be not paid forthwith [or on or before — next], I adjudge the said *A. B.* to be imprisoned in the [house of correction] at —, in the said county [there to be kept to hard labour] for the space of —, unless the said several sums [and the costs and charges of conveying the said *A. B.* to the said house of correction] shall be sooner paid.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

(K. 3.)

Order for any other Matter where the disobeying of it is punishable with Imprisonment.

— } Be it remembered, that on — complaint was to wit. { made before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of —, for that [stating the facts entitling the complainant to the order, with the time and place when and where they occurred], and now at this day, to wit, on —, at —, the parties aforesaid appear before me, the said justice, [or the said *C. D.* appears before me, the said justice, but the said *A. B.* although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath that the said *A. B.* has been duly served with the summons in this behalf, which required him to be and appear here at this day, before such justices of the peace for the said county as should now be here, to answer to the said complaint, and to be further dealt with according to law]; and now, having heard the matter of the said complaint, I do therefore adjudge the said *A. B.* to [here state the matter required to be done], and if upon a copy of a minute of this order being served upon the said *A. B.*, either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said *A. B.* for such his disobedience to be imprisoned in the [house of correction] at —, in the said county [there

to be kept to hard labour] for the space of — [unless the said order be sooner obeyed, *if the statute authorize this*]; and I do also adjudge the said *A. B.* to pay to the said *C. D.* the sum of — for his costs in this behalf; and if the said sum for costs be not paid forthwith [*or on or before — next*], I order the same to be levied by distress and sale of the goods and chattels of the said *A. B.*, [and in default of sufficient distress in that behalf I adjudge the said *A. B.* to be imprisoned in the said *house of correction* *and there kept to hard labour*] for the space of —, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid].

Given under my hand and seal this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

(L.)

Order of Dismissal of an Information or Complaint.

— } Be it remembered, that on — information
to wit. } was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [county] of —, for that [*&c., as in the summons to the defendant*], and now at this day, to wit, on —, at —, both the said parties appear before me in order that I should hear and determine the said information [*or complaint*], [*or the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear*]; whereupon the matter of the said information [*or complaint*] being by me duly considered [it manifestly appears to me that the said information [*or complaint*] is not proved, and*] I do therefore dismiss the same, [and do adjudge that the said *C. D.* do pay to the said *A. B.* the sum of — for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith [*or on or before —*], I order that the same be levied by distress and sale of the goods and chattels of the said *C. D.*, and in default of sufficient distress in that behalf I adjudge the said *C. D.* to be imprisoned in the [*house of correction*] at —, in the said county [*and there kept to hard labour*] for the space of —, unless the said sum for costs, and all costs and charges of the said dis-

treas [and of the commitment and conveying of the said C. D. to the said house of correction], shall be sooner paid.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid. J. S. (L.S.)

* If the informant or complainant do not appear these words may be omitted.

(M.)

Certificate of Dismissal.

I hereby certify, that an information [or complaint] preferred by C. D. against A. B., for that [&c., as in the summons], was this day considered by me, one of Her Majesty's justices of the peace in and for the [county] of —, and was by me dismissed [with costs].

Dated this — day of —, 186 . J. S.

(N. 1.)

Warrant of Distress upon a Conviction for a Penalty.

To the constable of —, and to all other peace officers in the said [county] of —.

Whereas A. B., late of — [labourer], was on this day [or on — last past] duly convicted before the undersigned, [one] of Her Majesty's justices of the peace in and for the said county of —, for that [stating the offence as in the conviction], and it was thereby adjudged that the said A. B. should for such his offence forfeit and pay [&c., as in the conviction], and should also pay to the said C. D. the sum of — for his costs in that behalf; and it was thereby ordered that if the said several sums should not be paid [forthwith] the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was thereby also adjudged that in default of sufficient distress the said A. B. should be imprisoned in the [house of correction] at —, in the said county [and there kept to hard labour] for the space of —, unless the said several sums, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to

the said [*house of correction*], should be sooner paid: And whereas the said *A. B.* being so convicted as aforesaid, and being [*now*] required to pay the said sums of — and —, hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *A. B.*; and if within the space of — days next after the making of such distress the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising by such sale unto —, the clerk of the justices of the peace for the division of — in the said [*county*], that he may pay and apply the same as by law is directed, and may render the overplus, if any, on demand, to the said *A. B.*; and if no such distress can be found, then that you certify the same unto me, to the end that such further proceedings may be had thereon as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(N. 2.)

Warrant of Distress upon an Order for the Payment of Money.

To the constable of — and to all other peace officers in the said [*county*] of —.

Whereas on — last past, a complaint was made before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said county of —, for that [*&c., as in the order*], and afterwards, to wit, on —, at —, the said parties appeared before me [*or as in the order*], and thereupon having considered the matter of the said complaint I adjudged the said *A. B.* to [*pay to the said C. D. the sum of — on or before the — then next*], and also to pay to the said *C. D.* the sum of — for his costs in that behalf; and I thereby ordered that if the said several sums should not be paid on or before the said — then next, the same should be levied by distress and sale of the goods and chattels of the said *A. B.*; and it was adjudged that in default

of sufficient distress in that behalf, the said *A. B.* should be imprisoned in the [house of correction] at —, in the said county [and there kept to hard labour] for the space of —, unless the said several sums, and all costs and charges of the distress [and of the commitment and conveying of the said *A. B.* to the said house of correction], should be sooner paid: And whereas the time in and by the said order appointed for the payment of the said several sums of — and — hath elapsed, but the said *C. D.* hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *A. B.*; and if within the space of — days after the making of such distress the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto —, the clerk of the justices of the peace for the division of —, in the said [county], that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said *A. B.*; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(N. 3.)

Endorsement in backing a Warrant of Distress.

— } Whereas proof upon oath hath this day been
to wit. } made before me, one of Her Majesty's justices of the peace in and for the said county of —, that the name of *J. S.* to the within warrant subscribed is of the handwriting of the justice of the peace within mentioned: I do therefore authorize *W. T.*, who bringeth to me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all constables and other peace officers of the said [county] of —, to execute the same within the said county of —.

Given under my hand, this — day of —, 186 .
J. B.

(N. 4.)

Constable's Return to a Warrant of Distress.

I, W. T., constable of —, in the [county] of —, do hereby certify to J. S., esquire, one of Her Majesty's justices of the peace for the said county, that by virtue of this warrant I have made diligent search for the goods and chattels of the within-mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my hand, this — day of —, 186 .
W. T.

(N. 5.)

Warrant of Commitment for Want of Distress.

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas [&c., as in either of the foregoing distress warrants, N. 1, 2, to the asterisk (*), and then thus]: And whereas afterwards on the — day of —, in the year aforesaid, I, the said justice, issued a warrant to the constable of —, commanding him to levy the said sums of — and — by distress and sale of the goods and chattels of the said A. B.: And whereas it appears to me, as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are therefore to command you the said constable of —, to take the said A. B., and him safely to convey to the [house of correction] at —, aforesaid, and there deliver him to the said keeper, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said A. B. into your custody in the said [house of correction], there to imprison him [and keep him to hard labour] for the space of —, unless the said several sums, and all the costs and charges of the said distress [and of the commitment and conveying of the said A. B. to the said house of correction] amounting to the further

sum of —, shall be sooner paid unto you the said keeper; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(O. 1.)

*Warrant of Commitment upon a Conviction for a
Penalty in the first instance.*

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas A. B., late of — [labourer], was on this day duly convicted before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county], for that [stating the offence as in the conviction]; and it was thereby adjudged that the said A. B. for his said offence should forfeit and pay the sum of — [£c., as in the conviction], and should pay to the said C. D. the sum of — for his costs in that behalf; and it was thereby further adjudged that if the said several sums should not be paid [forthwith], the said A. B. should be imprisoned in the [house of correction] at —, in the said [county] [and there kept to hard labour] for the space of —, unless the said several sums [and the costs and charges of conveying the said A. B. to the said house of correction] should be sooner paid: And whereas the time in and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you the said constable of —, to take the said A. B., and him safely to convey to the [house of correction] at — aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said A. B. into your custody in the said [house of correction], there to imprison him [and keep him to hard labour] for the space of —, unless the said several sums [and the costs and charges of conveying him to the said [house of correction] amounting to the further sum of —] shall be

peace in and for the said county of —, for that [*&c., as in the order*], and afterwards, to wit, on —, at —, the said parties appeared before me [*or as it may be in the order*], and thereupon having considered the matter of the said complaint I adjudged the said *A. B.* to [*&c. as in the order*], and that if, upon a copy of the minute of that order being duly served upon the said *A. B.*, either personally or by leaving the same for him at his last or most usual place of abode, he should neglect or refuse to obey the same, it was adjudged that in such case the said *A. B.* for such his disobedience should be imprisoned in the [*house of correction*] at —, in the said county, [*and there kept to hard labour*] for the space of — [*unless the said order should be sooner obeyed*]: And whereas it is now proved to me that after the making of the said order a copy of the minute thereof was duly served upon the said *A. B.*, but he then refused [*or neglected*] to obey the same, and hath not as yet obeyed the said order: These are therefore to command you the said constable of —, to take the said *A. B.*, and him safely to convey to the [*house of correction*], at — aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said [*house of correction*] to receive the said *A. B.* into your custody in the said [*house of correction*], there to imprison him [*and keep him to hard labour*] for the space of —, and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(P. 3.)

Warrant of Distress for Costs upon a Conviction where the Offence is punishable by Imprisonment.

To the constable of — and to all other peace officers in the said [*county*] of —.

Whereas *A. B.* of —, labourer, was on — last past duly convicted before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said county, for that [*stating the offence as in the conviction*], and it

was thereby adjudged that the said *A. B.* for his said offence should be imprisoned in the *house of correction* at — in the said county [*and there kept to hard labour*] for the space of —; and it was also thereby adjudged that the said *A. B.* should pay to the said *C. D.* the sum of — for his costs in that behalf; and it was thereby ordered that if the said sum of — for costs should not be paid [*forthwith*] the same should be levied by distress and sale of the goods and chattels of the said *A. B.*; [and it was adjudged that in default of sufficient distress in that behalf the said *A. B.* should be imprisoned in the said *house of correction* [*and there kept to hard labour*] for the space of —, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said *A. B.* to the said *house of correction*, should be sooner paid:] And whereas the said *A. B.*, being so convicted as aforesaid, and being required to pay the said sum of — for costs, hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *A. B.*, and if within the space of — days next after the making of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to —, the clerk of the justices of the peace for the division of — in the said [*county*], that he may pay the same as by law directed, and may render the surplus (if any), on demand, to the said *A. B.*, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(P. 4.)

Warrant of Distress for Costs upon an Order where the disobeying of the Order is punishable with Imprisonment.

To the constable of — and to all other peace officers in the said [county] of —.

Whereas on — last past complaint was made before the undersigned, [one] of Her Majesty's justices of the peace in and for the said county of —, for that [*&c., as in the order*], and afterwards, to wit, on —, at —, the said parties appeared before me, as such justice as aforesaid [*or as it may be in the order*], and thereupon having considered the matter of the said complaint, I adjudged the said *A. B.* to [*&c., as in the order*]; and that if upon a copy of the minute of that order being served upon the said *A. B.*, either personally or by leaving the same for him at his last or most usual abode, he should neglect or refuse to obey the same, I adjudged that in such case the said *A. B.* for such his disobedience should be imprisoned in the *house of correction* at —, in the said county [*and there kept to hard labour*] for the space of — [*unless the said order should be sooner obeyed*]; and I thereby also adjudged the said *A. B.* to pay to the said *C. D.* the sum of — for his costs in that behalf; and I ordered that if the said sum for costs should not be paid [*forthwith*] the same should be levied of the goods and chattels of the said *A. B.*; [and in default of sufficient distress in that behalf I thereby adjudged that the said *A. B.* should be imprisoned in the said *house of correction*, [*and there kept to hard labour*] for the space of —, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said *A. B.* to the said *house of correction*, should be sooner paid]: And whereas after the making of the said order a copy of the minute thereof was duly served upon the said *A. B.*, but the said *A. B.* did not then pay, nor hath he paid, the sum of — for costs, or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *A. B.*, and if within the space of — days next after the making

of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to —, the clerk of the justices of the peace for the division of — in the said [county], that he may pay the same as by law directed, and may render the overplus, if any, on demand, to the said A. B., and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(P. 5.)

*Warrant of Commitment for Want of Distress in
either of the last two Cases.*

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas [&c., as in the last two forms respectively, to the asterisk (*), and then thus]: And whereas afterwards, on the — day of — in the year aforesaid, I the said J. S. issued a warrant to the constable of —, commanding him to levy the said sum of — for costs, by distress and sale of the goods and chattels of the said A. B.: And whereas it appears to me, as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command you the said constable of — to take the said A. B., and him safely to convey to the [house of correction] at — aforesaid, and there deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said house of correction to receive the said A. B. into your custody in the said house of correction, there to imprison him [and

keep him to hard labour] for the space of —, unless the said sum, and all costs and charges of the said distress, [*and of the commitment and conveying of the said A. B. to the said house of correction,*] amounting to the further sum of —, shall be sooner paid unto you the said keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(Q. 1.)

Warrant of Distress for Costs upon an Order for Dismissal of an Information or Complaint.

To the constable of — and to all other peace officers in the said [*county*] of —.

Whereas on — last past information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said *county*, for that [*&c., as in the order of dismissal*]; and afterwards, to wit, on —, at —, both parties appearing before me in order that I should hear and determine the same, and the several proofs adduced to me in that behalf being by me duly heard and considered, and it manifestly appearing to me that the said information [*or complaint*] was not proved, I therefore dismissed the same, and adjudged that the said *C. D.* should pay to the said *A. B.* the sum of — for his costs incurred by him in his defence in that behalf; and I ordered that if the said sum for costs should not be paid [*forthwith*] the same should be levied of the goods and chattels of the said *C. D.*; [and I adjudged that in default of sufficient distress in that behalf the said *C. D.* should be imprisoned in the *house of correction* at — in the said county, *and there kept to hard labour*, for the space of —, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said *C. D.* to the said *house of correction*, should be sooner paid] (*): And whereas the said *C. D.*, being now required to pay unto the said *A. B.* the

said sum for costs, hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *C. D.*; and if, within the space of — days next after the making of such distress, the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to —, the clerk of the justices of the peace for the division of — in the said [county], that he may pay and apply the same as by law directed, and may render the overplus (if any), on demand, to the said *C. D.*, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(Q. 2.)

Warrant of Commitment for Want of Distress in the last Case.

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas [&c., as in the last form to the asterisk (*), and then thus]: And whereas afterwards, on the — day of —, in the year aforesaid, I the said justice issued a warrant to the constable of —, commanding him to levy the said sum of —, for costs, by distress and sale of the goods and chattels of the said *C. D.*: And whereas it appears to me as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable hath made diligent search for the goods and chattels of the said *C. D.*, but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command you the said constable of —, to take the said *C. D.*, and him safely convey to the house of correction at — aforesaid, and there deliver him to the said keeper

keep him to hard labour] for the space of —, unless the said sum, and all costs and charges of the said distress, [*and of the commitment and conveying of the said A. B. to the said house of correction,*] amounting to the further sum of —, shall be sooner paid unto you the said keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid.
J. S. (L.S.)

(Q. 1.)

Warrant of Distress for Costs upon an Order for Dismissal of an Information or Complaint.

To the constable of — and to all other peace officers in the said [*county*] of —.

Whereas on — last past information was laid [*or complaint was made*] before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said county, for that [*&c., as in the order of dismissal*]; and afterwards, to wit, on —, at —, both parties appearing before me in order that I should hear and determine the same, and the several proofs adduced to me in that behalf being by me duly heard and considered, and it manifestly appearing to me that the said information [*or complaint*] was not proved, I therefore dismissed the same, and adjudged that the said C. D. should pay to the said A. B. the sum of — for his costs incurred by him in his defence in that behalf; and I ordered that if the said sum for costs should not be paid [*forthwith*] the same should be levied of the goods and chattels of the said C. D.; [and I adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the *house of correction* at — in the said county, *and there kept to hard labour*, for the space of —, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said C. D. to the said *house of correction*, should be sooner paid] (*): And whereas the said C. D., being now required to pay unto the said A. B. the

said sum for costs, hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *C. D.*; and if, within the space of — days next after the making of such distress, the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to —, the clerk of the justices of the peace for the division of — in the said [county], that he may pay and apply the same as by law directed, and may render the overplus (if any), on demand, to the said *C. D.*, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. S. (L.S.)

(Q. 2.)

Warrant of Commitment for Want of Distress in the last Case.

To the constable of —, and to the keeper of the [house of correction] at —, in the said [county] of —.

Whereas [&c., as in the last form to the asterisk (*), and then thus]: And whereas afterwards, on the — day of —, in the year aforesaid, I the said justice issued a warrant to the constable of —, commanding him to levy the said sum of —, for costs, by distress and sale of the goods and chattels of the said *C. D.*: And whereas it appears to me as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable hath made diligent search for the goods and chattels of the said *C. D.*, but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command you the said constable of —, to take the said *C. D.*, and him safely convey to the house of correction at — aforesaid, and there deliver him to the said keeper

thereof, together with this precept; and I do hereby command you the said keeper of the said *house of correction* to receive the said *C. D.* into your custody in the said *house of correction*, there to imprison him [*and keep him to hard labour*] for the space of —, unless the said sum, and all costs and charges of the said distress [*and of the commitment and conveying of the said C. D. to the said house of correction*], amounting to the further sum of —, shall be sooner paid unto you the said keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [*county*] aforesaid. J. S. (L.S.)

(R.)

Certificate of Clerk of the Peace that the Costs of an Appeal are not paid.

Office of the clerk of the peace for the [*county*] of —.

(*Title of the Appeal.*)

I hereby certify that at a court of general quarter sessions of the peace holden at —, in and for the said [*county*], on — last past, an appeal by *A. B.* against a conviction [*or order*] of *J. S.*, Esquire, one of Her Majesty's justices of the peace for the said [*county*], came on to be tried, and was then heard and determined, and the said court of general quarter sessions thereupon ordered that the said conviction [*or order*] should be confirmed [*or quashed*], and that the said [*appellant*] should pay to the said [*respondent*] the sum of —, for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the clerk of the peace of the said county on or before the — day of — instant, to be by him handed over to the said [*respondent*]; and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order. Dated the — day of —, 186 .

G. H.,

[*Deputy*] clerk of the peace.

(S. 1.)

Warrant of Distress for Costs of an Appeal against a Conviction or Order.

To the constable of —, and to all other peace officers in the said [county] of .

Whereas [&c., as in the warrants of distress N. 1, 2, ante, to the end of the statement of the conviction or order, and then thus]: And whereas the said A. B. appealed to the court of general quarter sessions of the peace for the said county against the said conviction [or order], in which appeal the said A. B. was the appellant, and the said C. D. [or J. S., Esquire, the justice of the peace who made the said conviction or order] was the respondent, and which said appeal came on to be tried, and was heard and determined, at the last general quarter sessions of the peace for the said county holden at —, on —, and the said court of general quarter sessions thereupon ordered that the said conviction [or order] should be confirmed [or quashed], and that the said [appellant] should pay to the said [respondent] the sum of —, for his costs incurred by him in the said appeal, which said sum was to be paid to the clerk of the peace of the said [county] on or before the — day of —, 1849, to be by him handed over to the said [C. D.]: And whereas the [deputy] clerk of the peace of the said [county] hath, on the — day of — instant, duly certified that the said sums for costs had not then been paid: (*) These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said [A. B.], and if within the space of — days next after the making of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to —, the clerk of the justices of the peace for the division of —, in the said [county], that he may pay and apply the same as by law directed, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this — day of — in the year of our Lord —, at —, in the [county] aforesaid.

J. N. (L.S.)

(S. 2.)

Warrant of Commitment for Want of Distress in the last Case.

To the constable of —, and to the keeper of the
[house of correction] at —, in the said [county]
of —.

Whereas [&c., as in the last form to the asterisk (*) and then thus] : And whereas afterwards, on the — day of —, in the year aforesaid, I the undersigned issued a warrant to the constable of —, commanding him to levy the said sum of — for costs, by distress and sale of the goods and chattels of the said A. B. : And whereas it appears to me, as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable hath made diligent search for the goods and chattels of the said [A. B.], but that no sufficient distress whereon to levy the sum above mentioned could be found : These are therefore to command you the said constable of —, to take the said A. B., and him safely to convey to the [house of correction] at — aforesaid, and there deliver him to the said keeper thereof, together with this precept ; and I do hereby command you the said keeper of the said [house of correction] to receive the said A. B. into your custody in the said [house of correction], there to imprison him [and keep him to hard labour] for the space of —, unless the said sum, and all costs and charges of the said distress [and of the commitment and conveying of the said A. B. to the said house of correction], amounting to the further sum of —, shall be sooner paid unto you the said keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this — day of —, in the year of our Lord —, at —, in the [county] aforesaid.
J. N. (L.S.)

(T.)
*Account of Clerk of the Justices at Petty Sessions, and of the Keeper of the Gaol
or House of Correction.*

MONTHLY RETURN to Her Majesty's Justices of the Peace at the Petty Sessions of the Peace for the Division of — in the County of — assembled on the — day of — 1849, of Fines, Penalties, and Sums of Money received by the Clerk of the said Court [*or* by the Keeper of the Gaol or House of Correction at —], and how applied, from the — day of — 18 — to the — day of — 18 —.

Name of Party convicted.	Date.	Offence.	Costs.	Amount thereof paid.	Fine.	Amount thereof paid.	Amount of Fine received for County Rate.	Amount of Fine otherwise applied.	Punishment when Fine not paid.	Names of convicting Magistrates.	Reasons of Nonpayment or other Observations.

(Signed)

Clerk to the said Court, or Keeper of the above Gaol or House of Correction.



PROTECTION OF JUSTICES.

11 & 12 VICTORIA, CAP. 44.

An Act to protect Justices of the Peace from vexatious Actions for Acts done by them in execution of their Office.
[14th August, 1848.]

WHEREAS it is expedient to protect justices of the peace Preamble.
in the execution of their duty: Be it therefore enacted
by the Queen's most excellent Majesty, by and with
the advice and consent of the Lords spiritual and tem-
poral, and Commons, in this present parliament assem-
bled, and by the authority of the same, that every action For an act

Note to Section 1.—The remedy provided by this statute for a wrong committed by a justice upon an individual is quite distinct from the proceedings against a justice for impeding the course of justice. A magistrate is properly answerable to a criminal charge for misconduct in his office, though in such misconduct he may not be actuated by any motive of pecuniary interest, and though he may not mean maliciously to injure any individual. If he gives way to passion, or if in doing anything connected with the administration of justice he is guilty of any impropriety of demeanour so as to affect the due discharge of his duties, the court of Queen's Bench may direct that his conduct be laid before a jury. Mere errors of judgment will not, however, afford a ground for a criminal information against a magistrate.

This section has been held to protect a justice from liability to an action of trespass for an arrest under a warrant under s. 3 of the 7 & 8 Vict. c. 101, to bring the putative father of an illegitimate child before two justices for the purpose of enforcing an order in bastardy confirmed on appeal subject to a special case, when the warrant was issued two days after the hearing of the appeal (*Kendall v. Wilkinson*, 4 El. & B. 680; 24 L. J. R. (N. S.), M. C. 89; 19 J. P. 467), for according to the laws of this country an appeal is no stay of execution without a special order for that purpose. (*Hops v. Hope*, 23 L. J. R. (N. S.), Chanc. 682.)

It has also been held that under this section trespass *vi et armis* will not lie against a justice for committing a person to prison in default of finding sureties to keep the peace. *Haylock v. Sparke*, 4 E. & B. 471; 17 J. P. 272. Neither will an action lie for refusing to take bail on a charge of misde-

by a justice of peace, within his jurisdiction, the action shall be on the case, and it shall be alleged to have been done maliciously, and without probable cause.

hereafter to be brought against any justice of the peace for any act done by him in the execution of his duty as such justice, with respect to any matter within his jurisdiction as such justice, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause; and if at the trial of any such action, upon the general issue being pleaded, the plaintiff shall fail to prove such allegation, he shall be nonsuit, or a verdict shall be given for the defendant.

For an act done by him, without or exceeding his jurisdiction, action may lie

II. And be it enacted, that for any act done by a justice of the peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued

meanor without proof of malice, as a justice's duty in this respect is not merely ministerial. *Linford v. Fitzroy*, 13 Q. B. 240; 13 J. P. 474. See note to 11 & 12 Vict. c. 42, s. 23, *ante*, page 47. A person was convicted in a penalty of 2l. and costs, and in default of payment, two months' imprisonment. He gave notice of appeal, and left the court. A conviction and warrant were afterwards drawn up and signed by the magistrates, in which blanks were left for the amount of the costs. The costs having been ascertained by the clerk to the magistrates and inserted by him, the warrant was issued. The person convicted then, for the first time, became informed of the amount of the costs. In an action of trespass against the magistrates for false imprisonment, it was held that the signing the conviction and warrant in blank was an irregularity, not an excess of jurisdiction, and therefore the plaintiff was rightly nonsuited under the 11 & 12 Vict. c. 44, s. 1. *Bott v. Ackroyd*, 5 Jur. (N. S.), 1053; 28 L. J. (N. S.), M. C. 207; 23 J. P. 661.

Note to Section 2.—This and s. 1 must be read together; and it applies only to those cases where the act in respect of which the action is brought against the justice, is in itself an excess of jurisdiction. Therefore where a justice convicted the plaintiff in a penalty, and adjudged that it should be levied by distress and sale, but exceeded his jurisdiction in ordering the plaintiff in default of payment to be set in the stocks, which, however, was not done, but the penalty was levied by distress, it was held that an action of trespass for seizing the goods under the distress was not within this section, and was not maintainable by reason of s. 1. *Barton*

by such justice in any such matter, may maintain an action against such justice in the same form and in the same case as he might have done before the passing of

without such
allegation;

v. Bricknell, 13 Q. B. 393; 15 Jur. 668; 20 L. J. R. (N. S.), M. C. 1; 15 J. P. 82. As to the liability of justices to an action in trespass for acting without jurisdiction, see *Newbould v. Coltman and another*, 20 L. J. (N. S.), M. C. 149; 15 J. P. 372. Per Jervis, C. J., "exceeding his jurisdiction" means assuming to do something which the Act under which the justice is proceeding could by no possibility justify, as in the case of *Leary v. Pattrick and another*, 19 L. J. R. (N. S.), M. C. 211; 15 Q. B. 266; 4 N. S. C. 258; 14 Jur. 932; 14 J. P. 575, where there could have been no authority to issue a distress for costs not adjudged by a conviction. In that case it was held that where there is an excess of jurisdiction by justices, an action of trespass may be maintained against them under this section. The section has been held not to apply to a default in non-appearance to a summons for payment of penalties after conviction (*Bessell v. Wilson*, 1 El. & B. 489; 22 L. J. R. (N. S.), M. C. 94; 17 J. P. 567); and it was also held in the same case that the appearance of the defendant by counsel and attorney, assuming the section to apply to a summons after conviction, was a sufficient appearance. As already observed, an action cannot, without proof of malice, be maintained against a justice for refusing to admit to bail a person charged with a misdemeanor and entitled to bail, for the duty of a magistrate in respect of admitting to bail is judicial. *Linford v. Fitzroy*, 18 L. J. R. (N. S.), M. C. 108; 3 N. S. C. 438; 13 Jur. 303; 13 J. P. 474. In *Gelen v. Hall*, 27 L. J. (N. S.), M. C. 78; 21 J. P. 710, a question arose as to whether an action is maintainable against a justice of the peace for wilfully and maliciously, and without reasonable and probable cause, convicting a person in a penalty in a matter in which the justice had jurisdiction, and in which the penalty was paid, but the conviction had been subsequently quashed. The point was, however, not decided. In the following case the justices were held not to be liable to an action for making an order for payment of church rates, which was afterwards quashed and costs thereby incurred by the ratepayer. Upon a summons for nonpayment of church rates, the ratepayer set up a demand by the collector for the rate, and a refusal by himself to pay it, more than six months before the application for the summons, in order to oust the jurisdiction of the justices under 11 & 12 Vict. c. 43, s. 11; on which the other side proved a second demand and refusal within the six months; whereupon the justices made an order for payment, under 53 Geo. 3, c. 127. This order having been removed, was quashed, on the ground that the cause of

but not for an act done under a conviction, or order, until they have been quashed.

Nor for an act done under a warrant to compel appearance, if a summons were previously served and not obeyed.

If one justice make a conviction, &c. and grant another

this Act, without making any allegation in his declaration that the act complained of was done maliciously and without reasonable and probable cause: Provided nevertheless, that no such action shall be brought for anything done under such conviction or order until after such conviction shall have been quashed, either upon appeal or upon application to Her Majesty's court of Queen's Bench; nor shall any such action be brought for anything done under any such warrant which shall have been issued by such justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last-mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless if a summons were issued previously to such warrant, and such summons were served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such summons, in such case no such action shall be maintained against such justice for anything done under such warrant.

III. And be it enacted, that where a conviction or order shall be made by one or more justice or justices of the peace, and a warrant of distress or of commitment shall be granted thereon by some other justice of the

complaint was complete on the first demand and refusal. In the course of the argument, Hill, J., said that the justices merely gave a wrong decision in the course of exercising their jurisdiction; if the plaintiff were right, then an action will lie in every case where a conviction is quashed for the costs of getting it quashed. The true rule, he added, was laid down in *Barton v. Bricknell*, *supra*; and unless malice can be shown, the action cannot be maintained. *Somerville v. Mirehouse*, 3 L. T. (N. S.), 294; 25 J. P. 21.

Note to Section 3.—This section prevents a justice from being made liable for the acts of another, and confines his liability to his own acts only.

peace *bond fide* and without collusion, no action shall be brought against the justice who so granted such warrant by reason of any defect in such conviction or order, or for any want of jurisdiction in the justice or justices who made the same, but the action (if any) shall be brought against the justice or justices who made such conviction or order.

warrant,
action must
be brought
against the
former.

IV. And be it enacted, that where any poor rate shall be made, allowed, and published, and a warrant of distress shall issue against any person named and rated therein, no action shall be brought against the justice or justices who shall have granted such warrant, by reason of any irregularity or defect in the said rate, or by reason of such person not being liable to be rated therein; and that in all cases where a discretionary power shall be given to a justice of the peace by any Act or Acts of parliament, no action shall be brought against such justice for or by reason of the manner in which he shall have exercised his discretion in the execution of any such power.

No action
for issuing a
distress war-
rant irregu-
larly.

No action
against jus-
tices in the
exercise of
discretion-
ary power.

V. And whereas it would conduce to the advancement of justice and render more effective and certain the

If a justice
refuse to do
an act, the

Note to Section 4.—In a case where the justices refused to issue a distress warrant to enforce a poor rate, the objection to the rate being that the house rated was not within the bounds of the particular parish, although they were shown this proviso, which protected them from any liability in issuing their warrant, the court granted a rule *nisi* in the alternative for a *mandamus* to issue, or a rule under the fifth section, (*Reg. v. JJ. of Great Yarmouth*, 4 N. S. C. 313; 14 J. P. 320,) but it was afterwards discharged with costs, 14 J. P. 320, 769, Patteson, J., saying, (referring to *Weaver v. Price*, 3 B. & A. 409,) that the section will not protect the justice where the land is not in the parish.

Note to Section 5.—It will not in all cases be the most expedient course to proceed under s. 5 of the 11 & 12 Vict. c. 44, when a question arises as to the justices' jurisdiction. The 20 & 21 Vict. c. 43, has provided a new means whereby the opinion of a superior court can be obtained on a point of law arising before the justices at petty sessions. Where a

court of
Queen's
Bench may
by rule order
him to do it,
and no ac-

performance of the duties of justices, and give them protection in the performance of the same, if some simple means, not attended with much expense, were devised by which the legality of any act to be done by such jus-

rule had been moved for under the 11 & 12 Vict. c. 44, s. 5, calling upon the justices to show cause why they should not issue their distress warrant for levying a rate, or why they should not state a case under 20 & 21 Vict. c. 43, Lord Campbell, C. J., said that a special case will be much more convenient. *Luton Local Board of Health, app., Davis, resp.*, 6 Jur. (N. S.), 581 n.; 24 J. P. 677. The court will not, under this provision, grant a rule merely to put the justices in motion. In *Reg. v. Kesteven*, 13 L. J. R. (N. S.), M. C. 78; 8 J. P. 629, Lord Denman, C. J., said, that it must be taken to be generally known that the court of Queen's Bench will not entertain a case in such a state of it as that their decision may merely operate to put the court below in motion; and that the court is first to decide upon the case in one way or another; upon that adjudication the court above is willing to say which way, upon the whole matter, the final decision should be.

It should be borne in mind that this enactment protects the justices only, and not the parties, if the warrant cannot be supported, and that under this section the court may issue process to the justices, even where the law is not quite clear; and the person to be affected by the act commanded may try the question by resisting the order of justices. Per Coleridge, J., in *Reg. v. Cotton*, 15 A. & E. 574.

The court of Queen's Bench will inquire into the validity of an order of justices before compelling them under this section to issue a distress warrant to enforce such order, and will refuse a rule for that purpose where the order appears to be invalid. *Reg. v. Collins and another, JJ. of Durham*, 21 L. J. R. (N. S.), M. C. 73; 16 Jur. 422; 16 J. P. 230. Though it prescribes that if a justice shall refuse to do any act relating to his office he may be directed by rule of court to do it, the court is not authorized to order justices to draw up one joint conviction instead of two separate convictions against each of two persons against whom a joint information has been laid and determined by the justices. *In re Clee and Osborne*, 21 L. J. (N. S.), M. C. 112; 1 B. C. C. 31. Again, the court of Queen's Bench will not interfere under this section in a case where the jurisdiction in the particular matter is given to the justices, as in such a case the justices are at liberty to disregard the opinion of the court if they dissent from it. *Ex parte Board of Works, Westminster District*, 21 J. P. 133, and *Reg. v. Paynter*, 3 Jur. (N. S.), 511; 7 E. & B. 328; 26 L. J. R. (N. S.), M. C. 102; 21 J. P. 626. Neither will the court

tices might be considered and adjudged by a court of competent jurisdiction, and such justice enabled and directed to perform it without risk of any action or other proceeding being brought or had against him: Be it

tion shall be brought against him for doing it.

call upon a magistrate by rule under this section to hear and adjudicate upon a matter of fact affecting his jurisdiction. *Reg. v. Dayman*, 29 L. J. 125; 21 J. P. 340; 26 L. J. R. (N. S.), M. C. 128; 3 Jur. (N. S.), 744; 7 El. & Bl. 672. And the same principle was upheld in *Reg. v. Brown and others, JJ. of Monmouth*, 13 Q. B. 654; 3 Jur. (N. S.), 745; 21 J. P. 357; 26 L. J. R. (N. S.), M. C. 183; 29 L. T. 160, where upon an information against one of several owners of a mine under 18 & 19 Vict. c. 108, s. 4, after evidence had been taken in support of the complaint, it was objected that the information ought to have been laid against all the owners of the mine, and the justices, holding the objection good, thereupon dismissed the complaint; but the court held that the objection being untenable, and being a preliminary one in the nature of a plea in abatement, the justices had declined jurisdiction, and therefore the court made a rule absolute calling upon them under this section to hear and adjudicate upon the case. But by Erle, J., *dissenting*, as the magistrate's decision was upon a matter of fact, on which his jurisdiction depended, the court might properly review his decision, and if it should appear that he had erroneously decided on the point of jurisdiction, require him to hear and adjudicate upon the merits of the case. In a case where justices decided as follows:—"Upon a careful consideration of the evidence and the wording of the notice, the magistrates are of opinion that they are not in a position to order an assessment," in respect of damages under an inclosure Act, the court granted a rule commanding them to hear and decide the case:—Lord Campbell, C. J., saying, "they have decided that they are not in a position to decide. That seems to me quite consistent with their having heard and not decided. Their duty is to hear and decide." *Thorning v. Bennett*, 22 J. P. 399. In *Reg. v. Blanshard*, 18 L. J. (N. S.), M. C. 110; 13 J. P. 104, the court refused a *mandamus* to the justices to do an act, as it appeared that they had not declined to exercise their jurisdiction, but had entered upon the inquiry and decided, though erroneously. In *Reg. v. Bristol, JJ.*, 18 Jur. 426, it was also held that this section does not give the court power to grant a rule calling upon the justices to show cause, where before the statute they could not issue a *mandamus*.

Where a person rated to a highway rate neglected to appeal against it in time, and upon being summoned to appear before a justice for not paying it, showed a seemingly good ground of exemption, and the justice thereupon refused to issue a

therefore enacted, that in all cases where a justice or justices of the peace shall refuse to do any act relating to the duties of his or their office as such justice or justices, it shall be lawful for the party requiring such act to be done to apply to Her Majesty's court of Queen's Bench, upon an affidavit of the facts, for a rule calling upon such justice or justices, and also the party to be affected by such act, to show cause why such act should

distress warrant against him; upon an application for a rule that the justice should issue his warrant, the court held that the party was liable to the rate, as he had not appealed against it, and they therefore made the rule absolute commanding the justice to issue a distress warrant for its recovery. *Reg. v. JJ. of Oxfordshire*, 18 L. J. R. (N. S.), M. C. 222; 6 Dowl. & L. 288; 14 Jur. 575; 13 J. P. 445. In *Reg. v. Shropshire, JJ.*, 3 N. S. C. 641, it was also held that a rule under 11 & 12 Vict. c. 44, is not the proper remedy to try the validity of an exemption from the highway rate. But the court will not in all cases interfere under this section. In cases of much complexity or difficulty, or where the question is of such importance that the parties ought to have their right of appealing to a higher tribunal, in case they should be dissatisfied with the decision of the court of Queen's Bench, that court will not in general interfere, but will leave the party to his remedy by *mandamus*. See also s. 4 and *note*, p. 183, *ante*. The court of Queen's Bench is bound to interfere in cases where justices refuse to issue a warrant which they ought to issue; and that court will enforce a rule against the justices in such a case though there may be no information before the court as to whether any, or what evidence was given before the justices at the hearing, or what the defence was. In such a case all that the court requires is that the facts of the case authorized the issuing of the warrant, and that the justices refused to issue it. *Reg. v. Deverell*, 3 El. & Bl. 372; 23 L. J. R. (N. S.), M. C. 121. On motion against a justice under this enactment, as well as on motion for *mandamus*, the general rule is that the court will order the unsuccessful party to pay costs, and will not on the motion for costs enter into the merits of the original application. *Reg. v. Ingham*, 17 A. & E. 884. Further, with regard to proceedings under this section, see *Sparrow v. Impington*, 29 L. J. M. C. 176, *n*.

Where no cause is shown against a rule under the 11 & 12 Vict. c. 44, s. 5, the court will not make the rule absolute with costs unless asked for by the rule. *Leamington Priors (Commissioners) v. Moultrie*, 7 Dowl. & L. 311.

not be done; and if after due service of such rule good cause shall not be shown against it, the said court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet; and the said justice or justices upon being served with such rule absolute shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such justice or justices for having obeyed such rule, and done such act so thereby required as aforesaid.

VI. And be it enacted, that in all cases where a warrant of distress or warrant of commitment shall be granted by a justice of the peace upon any conviction or order which, either before or after the granting of such warrant, shall have been or shall be confirmed upon appeal, no action shall be brought against such justice who so granted such warrant for anything which may have been done under the same by reason of any defect in such conviction or order.

After conviction or order confirmed on appeal, no action for anything done under a warrant upon it.

VII. And be it enacted, that in all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought it shall be lawful for a judge of the court in which the same shall be brought, upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him shall seem meet.

If an action be brought where by this Act it is prohibited, a judge may set aside the proceedings.

VIII. And be it enacted, that no action shall be brought against any justice of the peace for anything done by him in the execution of his office, unless the same be commenced within six calendar months next after the act complained of shall have been committed.

Limitation of action.

Note to Section 8.—This is the same as 24 Geo. 2, c. 24, s. 8.

Notice of
action

IX. And be it enacted, that no such action shall be commenced against any such justice of the peace until one calendar month at least after a notice in writing of such intended action shall have been delivered to him,

Note to Section 9.—Under the statute 24 Geo. 3, c. 44, s. 1, which enacts that no writ shall be sued out against a magistrate until a notice in writing shall have been delivered to him, “at least one calendar month before the issuing out” of the writ, the month is to be calculated exclusively of the day of the notice, and of the day of suing out the writ. *Young v. Higgon*, 9 L. J. (N. S.), M. C. 29; 4 J. P. 683, 699.

A notice of action served before the quashing of a warrant of commitment (see s. 2, *supra*), in respect of which an action was brought against the justice granting it, is a sufficient notice under this section. *Haylock v. Sparke*, 1 El. & B. 471; 22 L. J. R. (N. S.), M. C. 67; 17 Jur. 731; 17 J. P. 262. In that case it was held that a justice has jurisdiction to require sureties for good behaviour in some cases of libel against private individuals; and therefore that he was not liable to an action for wrongfully doing so, as he had jurisdiction in the matter out of which the cause of action arose, and within the meaning of s. 1 of the 11 & 12 Vict. c. 44.

It has been held that a magistrate acting in the execution of his office is by this section entitled to notice of action, although he may have acted maliciously and without reasonable and probable cause. In such case the question whether he acted *bonâ fide*, or used his office colourably, does not arise. *Kirby v. Simpson*, 10 Exch. 358; 23 L. J. R. (N. S.), M. C. 165; 18 Jur. 983; 18 J. P. 696. But the notice of action should clearly and explicitly state a cause of action against the defendant under s. 1 of the Act for maliciously doing an act in a matter over which he had jurisdiction. *Taylor v. Nesfield*, 3 El. & B. 724; 23 L. J. R. (N. S.), M. C. 169; 18 Jur. 747; 19 J. P. 663. In reference to that case Erle, J., said, “A justice is liable to be sued in two ways for acts done under his warrant: if he has acted without jurisdiction, he is liable to an action as for a trespass; if he has acted within his jurisdiction, he is also liable to an action, but in the latter instance it must be an action on the case, and must charge malice, and I think a notice of action in such a case must also charge malice.” The notice of action will not be sufficient if it omit to state the place where the act complained of was done, and a tender of amends will not cure such a defect: *Martins v. Upcher*, 11 L. J. R. (N. S.), Q. B. 291; 6 J. P. 474, which however had reference to the 24 Geo. 2, c. 44. It has also been held that a justice of the peace who, upon his own view, seizes property as stolen, under circumstances which do not raise a reasonable ground of suspicion, is, under the

or left for him at his usual place of abode, by the party intending to commence such action, or by his attorney or agent, in which said notice the cause of action, and the court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the said attorney or agent, if such notice have been served by such attorney or agent.

X. And be it enacted, that in every such action the venue shall be laid in the county where the act complained of was committed, or in actions in the county court the action must be brought in the court within the district of which the act complained of was committed; and the defendant shall be allowed to plead the general issue therein, and to give any special matter of defence, excuse, or justification in evidence under such plea, at the trial of such action: Provided always, that no action shall be brought in any such county court against a justice of the peace for anything done by him in the execution of his office if such justice shall object thereto; and if within six days after being served with a sum-

Defendant may plead the general issue, any special matter, &c., in evidence.

24 Geo. 2, c. 44, entitled to a notice of action at the suit of the person whose property is taken. *Wedge v. Berkeley*, 6 L. J. R. (N. S.), M. C. 86.

A notice of action to a magistrate indorsed by the attorney for the plaintiff was held not to be bad by reason of its being signed by the plaintiff, or of its being served, not by the attorney, but by his clerk. *Morgan v. Leach*, 12 L. J. M. C. 4; 7 J. P. 242.

Note to Section 10.—It has been held that if a justice of the peace be sued in the county court for an act done in the execution of his office, and gives notice under this section that he objects to being sued there, the plaint cannot afterwards be removed by *certiorari*; for the words "all proceedings afterwards had in such county court in any such action shall be null and void," renders everything done in the county court entirely nugatory, and places the matter in the same position as if the action had never been brought. *Western v. Sneyd*, 26 L. J. Exch. 161; 21 J. P. 198.

mons in any such action such justice, or his attorney or agent, shall give a written notice to the plaintiff in such action that he objects to being sued in such county court for such cause of action, all proceedings afterwards had in such county court in any such action shall be null and void.

Tender, and
payment of
money into
court.

XI. And be it enacted, that in every such case after notice of action shall be so given as aforesaid, and before such action shall be commenced, such justice to whom such notice shall be given may tender to the party complaining, or to his attorney or agent, such sum of money as he may think fit as amends for the injury complained of in such notice; and after such action shall have been commenced, and at any time before issue joined therein, such defendant, if he have not made such tender, or in addition to such tender, shall be at liberty to pay into court such sum of money as he may think fit, and which said tender and payment of money into court, or either of them, may afterwards be given in evidence by the defendant at the trial under the general issue aforesaid; and if the jury at the trial shall be of opinion that the plaintiff is not entitled to damages beyond the sum so tendered or paid into court, or beyond the sums so tendered or paid into court, then they shall give a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be nonsuit, and the sum of money, if any, so paid into court, or so much thereof as shall be sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of court to him, and the residue, if any, shall be paid to the plaintiff; or if, where money is so paid into court in any such action, the plaintiff shall elect to accept the same in satisfaction of his damages in the said action, he may obtain from any judge of the court in which such action shall be brought an order that such money shall be paid out of court to him, and that the defendant shall pay him his costs to be taxed, and thereupon the said action shall be determined, and such order shall be a bar to any other action for the same cause.

XII. And be it enacted, that if at the trial of any such action the plaintiff shall not prove that such action was brought within the time hereinbefore limited in that behalf, or that such notice as aforesaid was given one calendar month before such action was commenced, or if he shall not prove the cause of action stated in such notice, or if he shall not prove that such cause of action arose in the county or place laid as the venue in the margin of the declaration, or (when such plaintiff shall sue in the county court) within the district for which such court is holden, then and in every such case such plaintiff shall be nonsuit, or the jury shall give a verdict for the defendant.

In what cases nonsuit, or verdict for defendant.

XIII. And be it enacted, that in all cases where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two-pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for nonpayment of the sum he was so ordered to pay.

Damages.

XIV. And be it enacted, that if the plaintiff in any such action shall recover a verdict, or the defendant shall allow judgment to pass against him by default, such plaintiff shall be entitled to costs in such manner as if this Act had not been passed; or if in such case it be stated in the declaration, or in the summons and particulars in the county court if he sue in that court, that the act complained of was done maliciously and without

Costs.

reasonable and probable cause, the plaintiff, if he recover a verdict for any damages, or if the defendant allow judgment to pass against him by default, shall be entitled to his full costs of suit, to be taxed as between attorney and client; and in every action against a justice of the peace for anything done by him in the execution of his office the defendant, if he obtain judgment upon verdict or otherwise, shall in all cases be entitled to his full costs in that behalf, to be taxed as between attorney and client.

Extent of Act.

XV. And be it enacted, that this Act shall extend only to England and Wales and the town of Berwick-upon-Tweed.

Commencement of Act.

XVI. And be it enacted, that this Act shall commence and take effect on the second day of October, in the year of our Lord one thousand eight hundred and forty-eight.

After commencement of this Act the following statutes or parts of statutes repealed.

7 Jac. 1, c. 5.

21 Jac. 1, c. 12, s. 5.

XVII. And be it enacted, that from and after the time this Act shall so commence and take effect as aforesaid the following statutes and parts of statutes, except so far as they may repeal other statutes, shall be and shall be deemed and taken to be repealed; that is to say, so much of an Act of parliament made and passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act for ease in pleading against troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other His Majesty's Officers, for the lawful Execution of their Office, as relates to Actions against Justices of the Peace;" and so much of an Act made and passed in the twenty-first year of the reign of His said Majesty King James the First, intituled "An Act to enlarge and make perpetual the Act made for ease in pleading against troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other His Majesty's Officers, for the lawful Execution of their Office,

Note to Section 15.—With regard to Berwick-upon-Tweed, see notes to 11 & 12 Vict. c. 42, s. 32, and 11 & 12 Vict. c. 43, s. 37, *ante*, pp. 59, 146.

made in the Seventh Year of His Majesty's most happy Reign, as relates to Actions against Justices of the Peace;" and so much of an Act made and passed in the twenty-fourth year of the reign of His Majesty King George the Second, intituled "An Act for the rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants," as relates to actions against justices of the peace; and a certain other Act made and passed in the forty-third year of the reign of His late Majesty King George the Third, intituled "An Act to render Justices of the Peace more safe in the Execution of their Duty;" and all other Act or Acts or parts of Acts which are inconsistent with the provisions of this Act; save and except so much of the said several Acts as repeal any other Acts or parts of Acts, and also except as to proceedings now pending, to which the same or any of them may be applicable.

24 G. 2, c. 44
ss. 1, 2, and
part of s. 8.

43 G. 3, c.
141.

XVIII. And be it enacted, that this Act shall apply for the protection of all persons for anything done in the execution of their office in all cases in which, by the provisions of any Act or Acts of parliament, the several statutes or parts of statutes hereinbefore mentioned and by this Act repealed would have been applicable if this Act had not passed.

Act to apply
to persons
protected by
the repealed
statutes.

XIX. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of parliament.

Act may be
amended,
&c.



SUBMISSION OF
POINTS OF LAW FOR THE OPINION OF THE
SUPERIOR COURTS.

20 & 21 VICTORIA, CAP. 43.

An Act to improve the Administration of the Law so far as respects summary Proceedings before Justices of the Peace.
[17th August, 1857.]

WHEREAS it is expedient that provision should be made for obtaining the opinion of a superior court on questions of law which arise in the exercise of summary jurisdiction by justices of the peace: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. In the interpretation and for the purposes of this Act, the following words shall have the meaning hereinafter assigned to them; that is to say, <sup>Interpreta-
tion of terms.</sup>

“Superior courts of law” shall for England mean the supreme courts of law at Westminster, and for Ireland the supreme courts at law at Dublin:

“Court of Queen's Bench” shall mean for England the court of Queen's Bench at Westminster, and for Ireland the court of Queen's Bench at Dublin.

Justices, on application of a party aggrieved, to state a case for the opinion of superior court.

II. After the hearing and determination by a justice or justices of the peace of any information or complaint which he or they have power to determine in a summary way, by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said justice or justices, to state and sign a case setting forth the facts and the grounds of such determination, for the opinion thereon of one of the superior courts of law to be named by the party applying; and such party, hereinafter called "the appellant," shall, within three days after receiving such case, transmit the same to the court named in his application, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, hereinafter called "the respondent."

Note to Section 2.—This is a most useful enactment; but magistrates should take care that it be not abused by their granting cases for the opinion of the court when the application appears to them to be frivolous. Cases ought not to be granted unless some doubtful point of law has been raised fit to be referred to one of the superior courts; and it should be borne in mind that the court has no jurisdiction under the Act to say anything but whether the justices did right or wrong in the particular case, and to answer the questions submitted to the court by the justices. See the observations of Blackburn, J., on this point in *St. Botolph v. Whitechapel*, 2 L. T. (N. S.), 507; 24 J. P. 564. The court will not entertain an appeal under the Act upon a question of fact. Therefore where a magistrate, upon the construction of the 5th rule of s. 26 of the Metropolitan Building Act, 1855, (18 & 19 Vict. c. 122,) decided that a certain place, being a row of houses forming part of a line of thoroughfare, was a street, the court declined to interfere with his decision. *Newman, app., Baker, resp.*, 8 C. B. (N. S.) 200, s. 2. The Act only gives the justices the power of asking the opinion of the court upon a point of law; and the question for the court is not whether the justices came to a right conclusion, but whether there was any evidence in support of that conclusion. *Green v. Pensam*, 22 J. P. 727.

In drawing up the special case care should be taken that it contains every question which it is desired to submit for the

opinion of the superior court, as that court has no power to give an opinion on a question asked by the parties to the case, but which the justices by whom the case is stated have not submitted for the opinion of the court. *St. James, Westminster, app., St. Mary, Battersea, resp.*, 29 L. J. (N. S.), M. C. 26; 6 Jur. (N. S.), 100. See also *Hills v. Hunt*, 15 C. B. 1, where the court would not allow a special case to be amended, by raising a point which the parties had not raised for the consideration of the court.

In a case stated from sessions Lord Denman, C. J., said that the justices have done right if they ask the opinion of the court whether the facts stated in the case will warrant the finding which they made; but wrong if they refer to the court the mere question of fact and ask its opinion as a jury upon it. *Reg. v. Pilkington*, 13 L. J. (N. S.), M. C. 64; 8 J. P. 724.

No point can be stated in a case for the opinion of a superior court which was not taken before the justices; therefore upon a conviction under the 9 Geo. 4, c. 61, for knowingly permitting persons of notoriously bad character to assemble and meet together in his inn, against the tenor of his licence, upon a case stated, it was held, upon the argument of the case, that the appellant could not object that there was no evidence of his knowledge, that point not having been taken before the justices. *Purkis v. Constable*, 5 Jur. (N. S.), 790; 23 J. P. 197; see also *Mottram, app., Eastern Counties Railway Company, resp.*, 7 C. B. (N. S.), 58, on the same point.

The court has no power hostilely to vary a special case which has been stated by counsel for the purpose of raising a different question from that which the parties originally contemplated. This was so held where, by consent of parties and under a judge's order pursuant to the Common Law Procedure Act, 1852, a case was stated for the opinion of the court of Common Pleas. *Mersey Dock Trustees v. Jones*, 8 C. B. (N. S.), 124.

The court, it is apprehended, will not entertain a case if the point of law involved in it has been before decided. Where the quarter sessions sent a case for the opinion of the court of Queen's Bench, being ignorant that the point stated in it had been previously decided, the court refused to review their judgment. *Reg. v. St. John the Evangelist*, 2 Jur. 46.

Section 2 empowers the justices to state a case for the opinion of a superior court in the event of an acquittal as well as of a conviction. *Davys v. Douglas*, 28 L. J. R. (N. S.), M. C. 193; 32 L. T. 283; 23 J. P. 135. And it would seem from *ex parte Smith*, 27 L. J. R. (N. S.), M. C. 186, that a judge at chambers can grant an order upon the justices to state a case under this Act. See ss. 5 and 7, *post*, as to the authority of a judge at chambers under the Act.

The application to the justices to state a case must be made within three days after the hearing and determination of the

information or complaint; and it has been held that, in computing those three days, Sunday, when it is the last of those days, is not to be excluded. *Peacock v. Regina*, 4 C. B. (N. S.), 264; 31 L. T. 101; 27 L. J. (N. S.), C. P. 224; 22 J. P. 403. On the hearing of the appeal, if the respondent do not appear, the appellant, in order to entitle him to the judgment of the court, must show that the decision of the justices was wrong. *Syred v. Carruthers*, 27 L. J. (N. S.), M. C. 273; 23 J. P. 37; 1 E. B. & E. 469.

The provision that the appellant shall within three days after receiving the case transmit the same to the court, first giving notice in writing of such appeal, with a copy of the case, to the other party, is a condition precedent to the right of appeal, and where such provision is not complied with the court has no jurisdiction. *Woodhouse v. Wood*, 1 L. T. (N. S.), 59; 23 J. P. 754, 759; 6 Jur. (N. S.), 421; 29 L. J. (N. S.), M. C. 149. Accordingly, where the appellant did not so transmit the case or serve the copy of it until after the expiration of such three days, the court, upon the application of the respondent, struck out the case, notwithstanding he had written letters to the appellant amounting to a waiver of the objection. *Morgan v. Edwards*, 5 H. & N. 415; 6 Jur. (N. S.), 379; 24 J. P. 245. The provision that the case must be delivered to the respondent within a specified time is imperative, and cannot be waived. But *semble*, if the appellant endeavours to comply with the statute, *e. g.*, by endeavouring to serve the respondent, but is prevented by his keeping out of the way, he may be let in to have his appeal. *Morgan v. Edwards*, *supra*. When a case is stated, the section is satisfied if the appellant, within three days of his obtaining the case from the justice, seeks to find the respondent, but cannot do so, and, within such three days, gives notice to the attorney who represented the respondent before the justice, and after the expiration of the three days gives notice to the respondent, who does not object. Upon the production of an affidavit of these facts the court heard the appellant, though the respondent did not appear. *Syred v. Carruthers*, 1 E. B. & E. 469; 27 L. J. (N. S.), M. C. 273; 23 J. P. 37.

A case stated under this Act set out the grounds of the determination in respect of one of the conclusions at which the justices had arrived, but as to the other set out objections, and then stated that they were overruled. This, it would seem, is a sufficiently setting forth of the "grounds of determination" within the meaning of the Act. *Christie v. St. Luke, Chelsea*, 27 L. J. (N. S.), M. C. 153; 22 J. P. 496.

In *Blackpool v. Bennett*, 23 J. P. 198, it was held that a case stated under the 20 & 21 Vict. c. 43, sufficiently set forth facts to support a conviction under a bye-law of a local board of health, when such facts are stated as warranted an inference that the offence had been committed.

This enactment gives a remedy to parties in cases where before they possessed none; but it does not enable parties to avoid the ordinary and legitimate modes of redress which already existed. Therefore the justices cannot be called upon to grant a case on summary proceedings before them to enforce payment of a rate where an appeal lies against the rate to the quarter sessions, and the only objection raised is as to the validity of the rate on the ground that the party derives no benefit from the works for which it was made. This was so held where a party had been summoned by commissioners under a local Act before justices to show cause why a distress warrant should not be issued to compel payment of a 1s. 10d. rate under the Act in respect of certain sewage works. Before the justices the party summoned contended that he was not liable, because he was not benefited by the works. The justices decided against him, and refused to grant a case under the Act, and gave a certificate under s. 4, that the application was a frivolous one. *Reg. v. Gloucestershire, JJ.* 1 L. T. (N. S.), 294; 29 L. J. (N. S.), M. C. 117; 24 J. P. 263. It has however been held that a refusal of justices to enforce by distress, under the 2 & 3 Vict. c. 84, s. 1, payment of money under a contribution order of a board of guardians, made under Article 83, Form M. of the Consolidated Order, is a ground of appeal to one of the superior courts under the 20 & 21 Vict. c. 43, s. 2. *City of London Union (Guardians of) v. Acocks*, 8 C. B. (N. S.), 760.

The section, it will be perceived, applies only to a case in which there has been "a hearing and determination by a justice or justices of the peace of any information or complaint which he or they have power to determine in a summary manner." Apparently therefore the statute is confined to cases which can be dealt with under the 11 & 12 Vict. c. 43; but nevertheless in *Frend v. Tolleshunt Knights*, 28 L. J. (N. S.), M. C. 169; 5 Jur. (N. S.), 1080; 33 L. T. 89; 23 J. P. 677, (which related to the liability of the incumbent of a district church to be assessed to the poor rate in respect of the tithe rentcharge apportioned to his incumbency) a case was stated under 20 & 21 Vict. c. 43, s. 2, and the statute was treated as being applicable to cases of nonpayment of poor rates; it has, however, since been held that the 20 & 21 Vict. c. 43, does not apply to a decision of justices, at a special sessions for hearing appeals against poor rates, upon an appeal against an assessment. Such a case should be stated under s. 11 of 12 & 13 Vict. c. 45. *Wheeler v. Brimington*, 6 Jur. (N. S.), 698; 2 L. T. (N. S.), 171; 29 L. J. M. C. 175; 24 J. P. 261, 660. See also *Sparrow v. Impington*, ib. 176; 6 Jur. (N. S.), 953. It has also been held that an appeal under the 20 & 21 Vict. c. 43, s. 2, is not the proper mode of proceeding when the justices refuse to enforce a highway rate. *Walker v. Great Western Railway Company*, 29 L. J. (N. S.), M. C. 107; 24 J. P. 262.

Where justices hear an information or complaint and dismiss it on the ground that they have no jurisdiction, and at the same time offer to state a case for the opinion of one of the superior courts, a rule will not be granted by the court desiring the justices to hear and determine the matter. In such an event the justices would have adjudicated, and the court cannot command them to decide in a particular manner a case in regard to which they have jurisdiction. *Ex parte McLeod*, 3 L. T. (N. S.), 700; 25 J. P. 84.

It has been held that an appeal lay to a superior court under the 20 & 21 Vict. c. 43, in a case coming within the General Highway Act, 5 & 6 Will. 4, c. 50, s. 44, which requires the justices to hear and determine any complaint made to them against the accounts, or the application of monies received by the surveyor of the highways, and to make such order thereon as to them shall seem meet. *Townsend, app., Read, resp.*, 4 L. T. (N. S.), 447.

The justices, though not bound to grant a case if they are of opinion that the application is frivolous, ought nevertheless to do so when it is shown that the party applying for it was asserting a right, as a disputed right of way, and the proceedings arise out of the assertion of that right.

With regard to the manner in which a case should be stated, it is to be observed that the court expects such cases to be submitted to the judges in a complete form. Ordinarily the court will refuse to send back a case for amendment under 11 & 12 Vict. c. 78, s. 4; (*Reg. v. Holloway*, 1 Den. C. C. R. 370; 3 N. S. C. 410; 18 L. J. M. C. 60;) and cases for the consideration of the judges under that Act are not to be lengthy narratives of the facts. *Reg. v. Stear*, 13 Jur. 41.

A case for the opinion of one of the superior courts, or of a judge of any such court, may be stated according to the following form:—

The Queen against —.

— } This was an information [or, complaint] preferred by
to wit. { — against —, for that [*here state shortly the
substance of the information or complaint*], and after hearing
the parties and the evidence adduced by them, the undersigned,
being two of Her Majesty's justices of the peace in and for the
— of —, did thereupon [*set out shortly the adjudication
of the justices*]. And the said —, alleging that he is dis-
satisfied with the said determination, as being erroneous in
point of law, did, within three days thereafter, apply to us the
said justices to state and sign a case, setting forth the facts and
the grounds of such determination for the opinion thereon of
the court of — [or, a judge of the court of —]. Wherefore
we the justices aforesaid, in compliance with the said request,
and in pursuance of the statute in such case made and pro-

vided, do hereby state and sign the following case for the opinion of the said court [*or*, of a judge of the said court].

CASE.

At the hearing of the said information [*or*, complaint], and on the close of the informant's [*or*, complainant's] case, the said — [*or*, the attorney for the said —] was heard in answer to the matter of the said information [*or*, complaint]; and it being proved on the part of the said — [the informant *or* complainant], that [*here set out the facts which the justices deem to have been proved, with such objections, &c., of either party, as will raise the point intended to be submitted*], we the said justices did adjudge and determine [*set out shortly the adjudication of the justices*].

QUESTION.

The question upon which the opinion of the said court [*or*, judge of the said court] is desired is, whether we the said justices, upon the above statement of facts, came to a correct decision in point of law? and if not, what should be done in the premises? [*Or*, the questions of law arising upon the above statement of facts are —. Whereupon the opinion of the said court [*or*, judge of the said court] is asked upon the said questions of law, whether or not we the said justices were correct in our determination as aforesaid? and if not, what should be done or ordered by the said court in the premises?]

The case must be signed by the justices; and the party applying for the case must enter into a recognizance as directed by stat. 20 & 21 Vict. c. 43, s. 3. If the case be for the opinion of the court, it must be set down for argument, and copies, with the points intended to be argued, must be delivered to the judges, as in the ordinary practice upon a special case. But if it be for the opinion of a judge, the appellant must obtain an appointment for the hearing, and give notice thereof to the respondent, and, four clear days before the day appointed for the hearing, deliver at the judge's chambers a copy of the appeal. (See s. 11, and note thereon, *post*.)

With reference to the manner of stating a case under the Act, the observations of Lord Campbell, C. J., in *Reg. v. Lee*, are too important to be omitted:—The defendant, George Lee, kept a shop in Westgate Street, Gloucester, in which he sold sweets; and he had been convicted by two magistrates of Gloucester, of "following his usual calling on the Lord's-day," and fined five shillings. He appealed against the conviction, and a case was stated for the opinion of this court, under 20 & 21 Vict. c. 43. When the case was called on, no one appeared to support the conviction.

Lord Campbell said that, in stating the case, he was sorry to observe that the magistrates had made an observation which was wholly extra-judicial. The observation was, "the magis-

Security
and notice
to be given
by the
appellant.

III. The appellant, at the time of making such application, and before a case shall be stated and delivered to him by the justice or justices, shall in every instance enter into a recognizance, before such justice or justices, or any one or more of them, or any other justice exer-

trates have only to add that Lee's shop is in the most conspicuous part of the city, and that the continual Sunday trading therein, for which the defendant has been several times convicted, has been repeatedly made the subject of public complaint."

Mr. Powell, for the appellant, said he was instructed that an application had been made to the clerk to the magistrates to amend the case, but the only answer made was, that he should not alter a letter.

Lord Campbell said he thought the court ought to animadvert upon such statements being introduced into the case. It was most improper, and he hoped it would not prejudice the minds of the court, though it could only have been introduced for that purpose, and he did not think the case was so stated that the court ought to take judicial knowledge of it. His lordship took the opportunity to express his great satisfaction at the manner in which cases had been stated under this Act of parliament. He approved of the Act, but he was at first afraid of the manner in which the cases would be stated. In general, the cases had been well stated by the magistrates' clerks; but, in this instance, it did not put the court into possession of the charge brought against the defendant, nor of the grounds on which the conviction took place. The conviction must be quashed.

Note to Section 3.—On an appeal from a decision of justices under ss. 2, 3, the appellant may enter into the required recognizance at any time during the three days allowed for applying for a case; and he need not enter into it simultaneously with making the application. *Chapman, app., Robinson, resp.*, 1 E. & E. 25; 28 L. J. (N. S.), M. C. 30; 32 L. T. 89; 23 J. P. 228.

Where a rule is moved calling upon the appellant to show cause why an appeal should not be struck out of the paper on the ground that he had not entered into his recognizance within three days, as required by section 3, the affidavit upon which the motion is made should be entitled in the names of the parties, and not merely "for the Queen's Bench." If it be not the court will discharge the rule as being irregular. *Johnson v. Simpson*, 1 L. T. (N. S.), 60; 23 J. P. 756, 775.

The general rule is to give costs to the successful party; but if on an appeal under the 20 & 21 Vict. c. 43, in which judgment is given for the appellant, the respondent do not appear,

cising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice or justices shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the superior court, and pay such costs as may be awarded by the same; and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the clerk to the said justice or justices his fees for and in respect of the case and recognizances, and any other fees to which such clerk shall be entitled, which fees, except such as are already provided for by law, shall be according to the schedule to this Act annexed, marked (A.), until the same shall be ascertained, appointed, and regulated in the manner prescribed by the statute, eleventh and twelfth Victoria, chapter forty-three, section thirty; and the appellant, if then

costs will not be given to the appellant under section 6. *Lee, app., Strain, resp.*, 5 Jur. (N. S.), 846; 28 L. J. (N. S.), M. C. 221. Where on an appeal under the 20 & 21 Vict. c. 43, against a conviction by justices, the court quashed the conviction, they held that the costs were to be paid by the party prosecuting. *Venables v. Hardman*, 1 E. & B. 79; 28 L. J. (N. S.) M. C. 33.

In cases stated under the 20 & 21 Vict. c. 43, costs are as a rule to follow the result; *Henry v. Trinity House, Newcastle*, 22 J. P. 515; *Davys v. Douglas*, 23 J. P. 135; and section 3 does not give the court power to award costs to the justices. *Luton Local Board of Health, app., Davis, resp.*, 6 Jur. (N. S.), 580; 24 J. P. 276. In that case application was made to the court for the justices' costs, owing to their having been obliged to state a case for the opinion of the court, and having been put thereby to great expense; but the court refused the application, observing, that the justices were not obliged to state the case by means of barristers.

The statute is binding upon the crown equally with private persons; therefore upon an appeal against a conviction upon the information of an officer of excise prosecuting for the crown by order of the commissioners of inland revenue, for an offence under the 4 & 5 Will. 4, c. 85, s. 17, the court, confirming the conviction, may order costs to be paid to the respondent, the excise officer. *Moore, app., Aaron Smith, resp.*, 5 Jur. (N. S.), 892; 23 J. P. 133.

If upon an appeal to the quarter sessions a case is stated for the opinion of a superior court under the 12 & 13 Vict. c. 45, s. 11, the practice is to give costs as between party and party.

in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice or justices, or, if that is impracticable, before some other justice or justices exercising the same jurisdiction who shall be then sitting, within ten days after the judgment of the superior court shall have been given, to abide such judgment, unless the determination appealed against be reversed.

Justices may refuse a case where they think the application frivolous.

IV. If the justice or justices be of opinion that the application is merely frivolous, but not otherwise, he or they may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate

Clarendon v. St. James, Westminster, 21 L. J. (N. S.), M. C. 213; 15 J. P. 340.

Note to Section 4.—In the following case it was held that the justices properly refused to state a case under the Act. *A.* was committed by the justices for deserting his wife and family. It appeared that they had been known as man and wife for twenty years, and their daughter, aged 37, said she had always looked upon them as married; the man had compromised a previous charge of the same nature by agreeing to pay five shillings a week. In 1858 he was married to another woman, was charged with bigamy and discharged. On the hearing of the charge for desertion it was contended that there was no proof of the defendant's marriage; it was then proposed to call the woman, but he objected to this on the ground that her evidence was not admissible. The justices however committed him, and refused to grant a case; and in so refusing, as above stated, the court held that they had well determined. *Reg. v. Yeomans*, 1 L. T. (N. S.), 369; 24 J. P. 150. The remarks of Crompton, J., with reference to the above case, deserve attention:—"I think," he said, "the justices would have done wrong if they had stated a case; they are only to do so when there are disputed questions of law; here the question is one of fact." The justices should therefore bear in mind, when asked to state a case, that they are only bound to state it when it is alleged that their determination is erroneous in point of law, and that an error in a matter of fact is no ground for a case being stated under the Act. They should also remember that they are not bound to grant a case on a point of law if they should be of opinion that the application is frivolous.

Where on a summons before justices to enforce payment of a special district rate under a Local Improvement Act, incorporating the Public Health Act, 11 & 12 Vict. c. 63, by s. 135 of which an appeal to the quarter sessions against the rate is

of such refusal; provided, that the justice or justices shall not refuse to state a case where application for that purpose is made to them by or under the direction of Her Majesty's attorney-general for England or Ireland, as the case may be.

V. Where the justice or justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the court of Queen's Bench upon an affidavit of the facts for a rule calling upon such justice or justices, and also upon the respondent, to show cause why such case should not be stated; and the said court may make the same absolute or discharge it, with or without payment of costs, as to the court shall seem meet, and the justice or justices, upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as is hereinbefore provided.

Where the justices refuse, the court of Queen's Bench may by rule order a case to be stated.

VI. The court to which a case is transmitted under this Act shall hear and determine the question or ques-

Superior court to determine

given, it was objected that the party rated received no benefit from the works for which the rate was made; the justices however made an order for the party to pay the sum demanded, and refused to state a case under section 2; and on a rule being moved for to compel them to state a case, it was held that they could not be required to do so. *Reg. v. Newman and others*, 29 L. J. (N. S.), M. C. 117; 6 Jur. (N. S.), 293.

Note to Section 5.—The court refused a rule to justices ordering them to state a special case for the opinion of the court, where the objection was that they had improperly received evidence. To enable the court to interfere it must appear that the determination of the justices was wrong in point of law, as it is confined in its consideration of the case to the determination of the justices. *Reg. v. Macclesfield, JJ.*, 2 L. T. (N. S.), 352.

Note to Section 6.—The practice in the court of Queen's Bench is for the party in support of a conviction to begin, unless the court think it more convenient in a particular case that the appellant should begin. *Crick v. Crick*, 22 J. P. 368. The same rule was adopted by the court of Exchequer in a case stated for the opinion of that court under the 20 & 21 Vict. c. 43. *Reg. v. Bennett*, 32 L. T. 26; 23 J. P. 198. But where, under the 20 & 21 Vict. c. 43, the appellant insists that the information or complaint has been wrongfully dismissed by

the questions of law arising thereon, and shall thereupon reverse, on the case : affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the justice or justices, with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such orders as to costs, as to the court may seem fit; and all such orders shall be final and

Its decisions to be final.

the justices, the appellant is entitled to begin the argument. *Jones v. Taylor*, 1 E. & E. 20, confirmed by *Ellis v. Kelly*, 6 Exch. Rep. 222; 30 L. J. (N. S.), M. C. 35; 6 Jur. (N. S.), 1119; 3 L. T. (N. S.), 332; 25 J. P. 279. This is now the rule, and it is in accordance with that adopted by the court of Common Pleas upon appeals under the 20 & 21 Vict. c. 43, namely, to adhere to the practice prevailing in that court in appeals from revising barristers and from county courts, of allowing the appellant to begin. *Gardner, app., Whitford, resp.*, 4 C. B. (N. S.), 665. On an appeal against a conviction the respondent begins, because the onus lies on the party seeking to sustain the conviction; but this reason does not apply when the magistrates have dismissed the complaint. In such a case the court holds that the party who appears in support of the complaint must begin.

On a special case stated for the opinion of a superior court pursuant to the 12 & 13 Vict. c. 45, s. 11, it is an established practice that the respondent begins. *Hansom v. Epsom Local Board of Health*, 2 Jur. (N. S.), 38, n; 20 J. P. 340. If neither the appellant nor the respondent appears, the court will not, on the application of the justices, entertain the case, for the matter would not be judicially before the court in the absence of both the parties to the appeal, and until they present themselves the court cannot entertain it. *Walters, app., Williams, resp.*, 9 C. B. (N. S.), 179. Upon the argument of a case stated by the justices under s. 2, the appellant will not be allowed to take objections which were not raised before the justices. Therefore where the appellant was charged with knowingly permitting persons of bad character to meet in his house, and the only defence suggested before the justices was, that the persons were there only for the purpose of obtaining refreshment, and therefore that the appellant could not be convicted, the court of Queen's Bench refused to hear an objection that there was no evidence that the appellant knew that the persons in his house were bad characters. *Purkis v. Huxtable*, 28 L. J. (N. S.), M. C. 221; 23 J. P. 293.

This section provides that the justices are not to be liable to any costs in respect or by reason of an appeal against their determination. Therefore, where upon an appeal under the 20 & 21 Vict. c. 43, against a conviction under a local turnpike act, for illegally taking toll, the conviction

conclusive on all parties : Provided always, that no justice or justices of the peace who shall state and deliver a case in pursuance of this Act shall be liable to any costs in respect or by reason of such appeal against his or their determination.

VII. The court for the opinion of which a case is stated shall have power, if they think fit, to cause the Case may be sent back for amendment.

was quashed, it was held that the party prosecuting must pay the costs. *Venables v. Hardman*, 28 L. J. (N. S.), M. C. 33; 4 Jur. (N. S.), 1108. The court may also make an order for costs for or against the crown in an appeal against an order of justices under this Act. Where upon an appeal against a conviction upon the information of an officer of excise, prosecuting for the crown by order of the commissioners of inland revenue, the court had held the conviction right, and given the costs of the appeal to the respondent, it was held that such order was right, and a rule *nisi* to amend a rule of court, by striking out so much of it as ordered the costs of the appeal to be paid by the appellant, was discharged. The meaning of the legislature, Lord Campbell, C. J., said, is clear. The 4th section provides that the justice or justices shall not refuse to state a case where the application for that purpose is made to them by the attorney-general, and the 6th section gives power to the superior courts to make such order as to costs as the court may think fit. This language he said evidently contemplates proceedings by which the crown is affected. *Moore v. Smith*, 28 L. J. (N. S.), M. C. 126; 32 L. T. 314; 23 J. P. 193. It has been decided that the court have power under section 6 of this Act to draw up an order under section 24 of the Pawnbrokers Act, 39 & 40 Geo. 3, c. 99; but in the particular case the court declined to do so, and remitted the case to the justices for rehearing, with a view to the 24th section, in order not to deprive the appellant of his appeal to the quarter sessions under the 35th section of the same Act. *Shackell v. West*, 29 L. J. (N. S.), M. C. 45; 6 Jur. (N. S.), 95; 24 J. P. 22.

Note to Section 7.—An application to send back for amendment a case on appeal under section 2 may be entertained by the court before the day of argument, as there is nothing in the Act to take away the ordinary jurisdiction of the court as to amending special cases. In the particular case it was agreed that the case should go back for amendment, and that each party should be at liberty to submit to the justices any additions which they might think ought to be made. *Yorkshire Tire and Axle Company v. Rotherham Local Board of Health*, 4 C. B. (N. S.), 362; 22 J. P. 625. The court, however, will not on a mere suggestion by the appellant in the affidavit that there has been misconduct or negligence in

case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Powers of superior court may be exercised by a judge at chambers.

VIII. The authority and jurisdiction hereby vested in a superior court for the opinion of which a case is stated under this Act shall and may (subject to any rules and orders of such court in relation thereto) be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time.

After the decision of superior court, justices may issue warrants.

IX. After the decision of the superior court in relation to any case stated for their opinion under this Act, the justice or justices in relation to whose determination the case has been stated, or any other justice or justices of the peace exercising the same jurisdiction, shall have the same authority to enforce any conviction or order, which may have been affirmed, amended, or made by such superior court, as the justice or justices who originally decided the case would have had to enforce his or their determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the justice or justices for enforcing such conviction or order by reason of any defect in the same respectively.

Certiorari not to be required for proceedings under this Act.

X. No writ of *certiorari* or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under this Act, or otherwise, for obtaining the judgment or determination of the superior court on such case under this Act.

Superior courts may make rules for proceedings.

XI. The superior courts of law may from time to time, and as often as they shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to the cases hereinbefore mentioned.

drawing a case, send it back to be amended or restated, though they may do so if they find the materials to be insufficient. *Townsend, app., Read, resp.*, 4 L. T. (N. S.), 447.

Note to Section 11.—The judges of the superior courts of

XII. The words "justice or justices" in this Act shall include a magistrate of the police courts of the metropolis and any stipendiary magistrate. "Justices" to include a stipendiary magistrate.

XIII. In all cases where the conditions, or any of them, in the said recognizance mentioned, shall not have been complied with, the justice or justices who shall have taken the same, or any other justice or justices, shall certify upon the back of the recognizance in what respect the conditions thereof have not been observed, and transmit the same to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be Recognizances how to be enforced.

law have made the following rules for regulating the practice and proceedings under the 20 & 21 Vict. c. 43 :—

REGULA GENERALIS.—*Michaelmas Term, 1857,*

1. It is ordered, that in cases of appeal to a superior court under the provisions of the statute 20 & 21 Vict. c. 43, the 15th and 16th Practice Rules of Hilary Term, 1853, so far as the same are applicable, shall be observed.

2. And in cases when the appeal is to be heard before a judge at chambers, the appellant shall obtain an appointment for such hearing, and shall forthwith give notice thereof to the respondent, and shall, four clear days before the day appointed for the hearing, deliver at the judge's chambers a copy of the appeal.

The 15th and 16th Practice Rules of Hilary Term, 1853, are to the effect that appeals may be set down for argument in the special paper, at the request of either party, four clear days before the day of argument, notice thereof being given forthwith to the opposite party, and the appeal cases with points of argument being delivered to the judges.

In a recent case where counsel appeared for the respondent in a case stated under the 22 & 23 Vict. c. 43, the court refused to hear him on account of default in the respondent not having furnished the judges with paper books, and in not having paid to the appellants the cost of the paper books furnished by them on the default of the respondent, in pursuance of Rule 16, Hilary Term, 1853. The court, however, intimated that counsel for the respondent would be heard on the next crown paper day if the respondent had then complied with the rule. See *Hill, app., Thorncroft, resp.*, 7 Jur. (N. S.), 163; 25 J. P. 262.

Note to Section 13.—As to the enforcement of recognizances estreated, see the 3 Geo. 4, c. 46, and 12 & 13 Vict. c. 45, s. 17, and the amending Acts.

2 & 3 Vict.
c. 71, s. 45.

Appellants
under this
Act not
allowed to
appeal
to quarter
sessions.

Extent of
Act.

proceeded upon in like manner as other recognizances forfeited at quarter sessions may now by law be enforced, and such certificate shall be deemed sufficient *prima facie* evidence of the said recognizance having been forfeited: Provided, that where any such recognizances shall have been taken in England before a magistrate of the police courts of the metropolis, or by any stipendiary magistrate, all sums of money in which any person or persons shall be therein bound may, if the said magistrate shall think fit, be levied, upon such recognizance being forfeited, and on nonpayment thereof, together with the costs of the proceedings to enforce such payment, in the same manner as a police magistrate of the metropolis is now empowered to recover any penalty, forfeiture, or sum of money, by section forty-five of an Act passed in the second and third years of the reign of Her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and that all and every the provisions and enactments contained in the said section forty-five shall extend to and be applicable to this Act, in as ample a manner as if they had been herein re-enacted and made part of the same.

XIV. Any person who shall appeal under the provisions of this Act against any determination of a justice or justices of the peace from which he is by law entitled to appeal to the quarter sessions shall be taken to have abandoned such last-mentioned right of appeal, finally and conclusively, and to all intents and purposes.

XV. This Act shall not extend to Scotland.

SCHEDULE A.

Fees to be taken by Clerks to Justices.

	s.	d.
For drawing case and copy, where the case does not exceed five folios of ninety words each	10	0
Where the case exceeds five folios, then for every additional folio	1	0
For the recognizance to be taken in pursuance of the Act	5	0
For every enlargement or renewal thereof	2	6
For certificate of refusal of case	2	0

APPENDIX.

ORDER OF SECRETARY OF STATE PRESCRIBING SCALE OF ALLOWANCES TO PROSECUTORS AND WITNESSES, UNDER 14 & 15 VICT. c. 55, s. 5.

[*9th February, 1858.*]

WHEREAS it is expedient to make regulations as to the rates and scales of payment according to which costs, expenses, and compensations shall be allowed and ordered to be paid under the Act of the seventh year of the reign of King George the Fourth, cap. 64, and divers other Acts of parliament authorizing such payments to prosecutors and witnesses, and to persons attending courts in obedience to recognizances or subpoenas in the cases of criminal prosecutions, for their travelling expenses and trouble and loss of time incurred in attending such courts, and also to make regulations as to the rates and scales of payment according to which certificates may be granted by the examining magistrate or magistrates in respect of the travelling expenses of prosecutors, and witnesses for the prosecution, and other persons, of attending before such magistrate or magistrates, and of compensation for trouble and loss of time therein in the cases aforesaid : And whereas to the end aforesaid, it has become necessary to revoke divers regulations made under the 26th section of the said Act hereinbefore recited : Now I, the Right Honourable Sir George Grey, acting under and in pursuance of a certain Act of parliament made and passed in a session of parliament holden in the fourteenth and fifteenth years of the reign of Her present Majesty, intituled " An Act to amend the Law relating to the Expenses of Prosecutions, and to make further Provision for the Apprehension and Trial of Offenders in certain Cases," do revoke, annul, and make void all rules and regulations made under the said 26th section of the said Act, whereby any costs, expenses, and compensations may be allowed or ordered to be paid to such prosecutors and witnesses, or other persons attending on recog-

nizance or subpoena, for their travelling expenses, trouble, and loss of time in attending before such courts or before such examining magistrate or magistrates, to a larger or greater amount than the allowances hereinafter authorized to be made in that behalf; and I do make, constitute, and appoint the following rules and regulations to be observed by all courts and magistrates, and the officers and clerks of such courts and magistrates, and by all others whom it may concern, as to the rates and scales of payment of such costs, expenses, and compensation; and I do direct that the same shall take effect and be in force in all places where the same may be capable of taking effect, that is to say,—

1. I do make, constitute, and appoint the following rules and regulations as to the rates and scales of payment according to which such certificates may be granted, by such examining magistrate or magistrates, in respect of the travelling expenses of prosecutors and witnesses for the prosecution of attending before such magistrate or magistrates, and of compensation for their trouble and loss of time therein in the cases aforesaid, namely:—

£ s. d.

There may be allowed to prosecutors or witnesses being members of the profession of the law, or of medicine, if resident in the city, borough, parish, town, or place where the examination is taken, or within a distance not exceeding two miles from such place, for their loss of time and trouble in attending to give professional evidence on such examination, but not otherwise, a sum in the discretion of the magistrate or magistrates, for each attendance not to exceed 0 10 6

If such prosecutor or witness shall reside elsewhere, then a sum for the same not to exceed - - 1 1 0

And for mileage, a sum not to exceed 3d. per mile each way.

To prosecutors and witnesses being constables attending the bench of magistrates where such examination is taken on any police duty, and to constables paid by salary, and attending from a distance not exceeding three miles, there shall be allowed - - - - - Nil.

Unless the magistrate or magistrates shall certify

£ s. d.

that there were special reasons for making an allowance, and shall specify such reasons upon his or their certificate, and then a sum not to exceed for each day - - - - - 0 1 0

To prosecutors and witnesses being constables paid by salary, and not attending the magistrate or bench of magistrates on any police duty, for their trouble in attending such examination, from a distance greater than three miles, and not exceeding seven miles from the place where the examination is taken, a sum not to exceed for each day - - - - - 0 1 0

To the same if attending from a distance greater than seven miles from the place where the examination is taken, a sum not to exceed for each day - - - - - 0 1 6

To prosecutors and witnesses being constables paid by salary, if necessarily detained all night for the purposes of the examination, a sum for the night not to exceed - - - - - 0 2 0

(The said allowances to prosecutors and witnesses being constables paid by salary, are to be conditional, upon the same being applicable for their personal benefit.)

To prosecutors and witnesses being constables necessarily travelling to the place of examination in discharge of any police duty, there shall be allowed for mileage - - - - Nil.

(Unless the examining magistrate or magistrates shall certify that there were special reasons for making an allowance, and shall specify the same upon the certificate, and then the same as other constables.)

To prosecutors and witnesses being constables not attending the place of examination in discharge of a police duty, and entitled to be conveyed under 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there shall be allowed mileage as follows:—

To superintendents, inspectors, serjeants, and constables, the lowest amount per mile au-

£ s. d.

thorized by Act of parliament for their conveyance, and no larger sum ;

To prosecutors and witnesses being constables able but not so entitled to travel, and not attending the place of examination on any police duty, there shall be allowed for mileage, railway fare, the same as to ordinary witnesses ;

To prosecutors and witnesses being constables not able to travel by railway, and not attending the magistrate or magistrates on any police duty, for every mile beyond four miles each way they shall travel to reach the place of examination, a sum not to exceed each way, 2d. ;

To prosecutors and witnesses being constables able partially to travel by railway, for every mile after the first four miles each way, in reaching such means of conveyance, a sum not to exceed 2d., and railway fare as other constables.

To prosecutors and witnesses not hereinbefore provided for, resident in the city, borough, parish, town, or place where the examination is taken, or within a distance not exceeding two miles from such place, for their trouble and loss of time in so attending, there shall be allowed a sum for each day, not to exceed - 0 1 0

If resident elsewhere and beyond the distance of two miles, or if such prosecutors or witnesses shall be necessarily detained from home, for the purpose of the examination, more than four hours, a sum at the like discretion, not to exceed - - - - - 0 1 6

If they shall be necessarily detained from home more than six hours, then a sum at the like discretion, not to exceed - - - - - 0 2 6

When he or they shall reside at such a distance from the place of examination as to render it necessary that he or they shall sleep from home, then, at the like discretion, a sum for the night, not to exceed - - - - - 0 2 6

£ s. d.

There may be allowed for mileage, as follows :—

If the prosecutor or witness reside at a greater distance than two miles from the place of examination, and the whole or any portion of the journey can be performed by railway, second-class for such whole, or portion of the journey, as the case may be; and for a journey, or part of a journey, performed otherwise than by railway, a sum not to exceed per mile each way - 0 0 3

In pursuance of the power in me vested, I do make the following rules and regulations as to the rates and scales of payment of costs, expenses, and compensations to be allowed, or ordered to be paid, under the said Act of the seventh year of the reign of King George the Fourth, and other the Acts of parliament aforesaid, to prosecutors and witnesses attending courts of assize, oyer and terminer, gaol delivery, general session of the peace, or any other courts having power to allow such costs, expenses, and compensation to prosecutors and witnesses and persons attending such courts, in obedience to any recognizance or subpoena in cases of criminal prosecutions, for their trouble, loss of time, and travelling expenses in so attending.

For the purpose aforesaid I do make, constitute, and appoint the following rules and regulations; (that is to say,) there may be allowed :—

£ s. d.

To prosecutors and witnesses, being members of the profession of the law or of medicine, attending to give professional evidence, but not otherwise, for their trouble, expenses, and loss of time, for each day they shall necessarily attend the court to give professional evidence, a sum not to exceed - - - - - 1 1 0

For each night, the same as ordinary witnesses, and for mileage a sum not to exceed, per mile each way - - - - - 0 0 3

To prosecutors and witnesses, being constables and paid by salary, if resident in the city, borough, town, or place, where such court is held, or within a distance not exceeding two

	£	s.	d.
miles of such place, a sum, in the discretion of the court, not to exceed for each day - -	0	1	0
If resident elsewhere, and if they shall attend from a greater distance than two miles, a sum, in the discretion of the court, for each day not to exceed - - - - -	0	1	6
To the same if they shall be necessarily detained all night for the purposes of the prosecution, a further sum for the night not to exceed -	0	2	0

If such prosecutors and witnesses shall be chief constables or superintendents attending from a distance greater than three miles, and they shall be necessarily detained all night for the purposes of the prosecution, instead of the foregoing allowances there may be allowed to them the same as ordinary witnesses.

(The said allowances to prosecutors and witnesses, being constables paid by salary, are to be conditional on the same being applicable to their personal benefit.)

To prosecutors and witnesses, being constables who shall be entitled to be conveyed under the 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there may be allowed for mileage as follows :—

To superintendents, inspectors, serjeants, and police constables, the lowest amount per mile authorized by Act of parliament for their conveyance, and no larger sum ;

To prosecutors and witnesses, being constables not so entitled to travel, there may be allowed railway fare the same as to ordinary witnesses ;

To the same if paid by salary, and where they are not able to travel by railway, for every mile beyond four miles each way they shall travel to and return from the court where the prosecution takes place, a sum not to exceed 2*d.* ;

To the same if paid by salary, when able partially to travel by railway, for every

£ s. d.

mile after the first four miles each way in reaching such means of conveyance, a sum not to exceed 2*d.*, and railway fare as other constables.

To prosecutors and witnesses not hereinbefore provided for, there may be allowed for their expenses, trouble, and loss of time in attending the court where the prosecution takes place, per day, a sum not to exceed - - - 0 3 6

To the same, if entitled to mileage, for each night they may be necessarily detained from home for the purposes of the prosecution at any assizes, session of gaol delivery, or session of oyer and terminer, a sum not to exceed - - 0 2 6

To the same, for each night they may necessarily be detained from home for the purposes of the prosecution at a session of the peace - - 0 2 0

To the same for mileage there may be allowed as follows :—

If resident more than two miles from the court where the prosecution takes place, if the whole or any portion of the journey can be performed by railway, second-class fare for such whole or portion of the journey, as the case may be, and for a journey or part of a journey performed otherwise than by railway, per mile, each way, a sum not to exceed - - - 0 0 3

In computing the amount to be allowed for mileage, under any of the regulations herein contained, I do direct that no greater allowance be made than at the rate of 3*d.* per mile each way by the nearest available route.

I also direct that no prosecutor or witness allowed for mileage, under any of the regulations herein contained, shall be allowed for loss of time occasioned by his or her omission to avail himself or herself of a public conveyance, if available.

I further direct that no prosecutor or witness be allowed, under any of the regulations aforesaid, for his attendance, loss of time, trouble, or expenses, in more than one case on the same day.

I further direct that no constable paid by salary be allowed for railway fare not actually paid.

I do authorize payment to the officer of a gaol whose duties require his attendance in the court where the prosecution takes place, for giving evidence on a former conviction, a sum not to exceed 3*s.* 6*d.*

I do make the following regulations as to the compensation to be allowed in the cases of prisoners brought by writ of *habeas corpus*, or other lawful process, to give evidence for the prosecution.

To governors and officers of gaols, in whose custody the prisoner is brought as follows:—

£ s. d.

To a governor, for his loss of time, trouble, and expenses, in bringing up such prisoner, for each day he may attend, the sum of	-	0	12	0
To other officers, for the same, the sum of	-	0	6	0
And for mileage, a sum, in the discretion of the court, not to exceed per mile each way		0	1	0

Provided always, that the above allowances shall not be made to any gaoler or officer charged with the custody of prisoners for trial, at the place where such prisoner shall be required to give evidence, in respect of the time such gaoler or officer shall, by virtue of his office, be required to be there present.

I authorize the following payments to be made to attornies for the prosecution, giving evidence, over and above the allowances so made to them as attornies:—

£ s. d.

Such attornies may be allowed a sum not exceeding	-	-	-	-	-	-	0	6	8
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If, in the opinion of the proper officer of the court, such evidence was necessary, and saved the attendance of another witness.

And whereas it may become necessary, in certain cases, that scientific persons, unacquainted with the facts to be given in evidence upon the prosecution, may be required to attend as witnesses, in order to state their opinion on matters of science in issue on such prosecutions, and it is reasonable in such cases that the foregoing rates of allowance should be departed from; I hereby direct that the allowances to be made to such persons shall be subject to the decision of the court before whom such persons may be examined, which may direct such allowances as to such court may appear reasonable.

Whenever an interpreter shall be employed to interpret on the part of the prosecution, it shall be competent for the court

before whom such interpreter shall be so employed to make him such allowances as to such court shall seem reasonable: Provided always, that this regulation is not to interfere with any regulations in force (where such now exist) for the remuneration of interpreters.

In case of the illness or inability of any prosecutor or witness to travel without some special means of conveyance, it shall be lawful for the court to depart from the foregoing rates of allowances, and to make such other allowances as the justice of the case shall require.

Under the circumstances herein specified under the head of exceptions, I authorize a departure from the rules and regulations herein contained, as well by the examining magistrate or magistrates as by the courts herein mentioned, except only in the case of an attorney for the prosecution giving evidence: Provided always, that whenever any allowances, hereinbefore authorized under the head of exceptions, shall have been made, the circumstances under which the general rate of allowances shall be departed from shall in all cases be fully specified by the proper officer of the court, or magistrate, upon the document by which such allowances shall be authorized. And lastly, I do order that, notwithstanding anything herein contained, all lawful rules and regulations heretofore made and in force, under or by reason whereof allowances to a less amount than those hereby authorized are now payable in the cases hereinbefore provided for, shall be and remain in as full force and effect as if this order had not been made, and shall continue to apply to the persons and the circumstances thereby provided for, although such persons and circumstances may be comprehended within the terms hereof, and that the said rules and regulations shall so far remain unaffected by this order, and that nothing herein contained shall have the effect of increasing the amount of any rates or allowances which may be lawfully made under such rules and regulations; it being the true intent and meaning hereof that such rules and regulations shall be and remain unaltered, further or otherwise than in the reduction of allowances to prosecutors and witnesses where the rates thereof shall be in excess of those herein contained.

Given under my hand at Whitehall, the ninth day of February, one thousand eight hundred and fifty-eight.

(Signed)

G. GREY.



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April, 1861.

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Oct. 2, 1844,
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In Chancery.

SHAW & OTHERS v. WIGHT
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December 21st, 1852.

Exchequer Chamber.

REG. v. WEBB.

[Before Sir F. POLLOCK, C. B.; PARKE, B.; PATTESON,
CRESSWELL, and WILLIAMS, JJ.]

THE Publishers of the Precedents contained in this Catalogue have extreme satisfaction in giving the following brief extract from the above case, which will be found fully reported in J. P. vol. 12, pp. 820, 821.

"*Pollock, C. B.*—In Sir Charles Sedley's case the indictment charged the exposure 'within sight and view,' which is open to the like criticism as the phrase 'in the presence of.'

"*Patteson, J.*—That indictment goes on to say, 'did expose to the view of,' &c. Why were these words left out?

"*Clarkson.*—Those words are used in the Form given by Mr. Archbold.

"*Prendergast.*—Those Forms are not of authority.

"*Pollock, C. B.*—*I have often consulted the Precedents and Publications of Mr. Archbold; and I must say that I know no one who has contributed so much as he, by his great diligence and his great accuracy, to assist the profession and the public.*"

1861.

A Catalogue

OF UPWARDS OF

ONE THOUSAND FORMS

OF

Blank Precedents,

PUBLISHED BY

SHAW AND SONS,

Law Printers and Publishers,


FETTER LANE, LONDON, E.C.

JUSTICES OF THE PEACE

OUT OF SESSIONS

May be furnished with such FORMS as relate to THEM only,
by directing Letters as above.

A SUPPLEMENT to this Catalogue will be printed at the close of
each Session, containing such ADDITIONAL FORMS as the Acts of
Parliament passed during its continuance may render necessary.

 *It is respectfully requested, that Gentlemen, on transmitting their orders, will be particular in quoting the Year on the Title Page of the Catalogue from which the Forms are taken, as it will prevent errors.*

Gentlemen are also desired to state by what conveyance they wish their Orders to be forwarded.

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Blank Precedents, &c.

Messrs. SHAW AND SONS beg to announce that the **Bastardy Precedents** not included in the Act 8 & 9 Vict. c. 10, and the Forms relating to **Removal of Paupers**, were settled by JOHN FREDERICK ARCHBOLD, Esq. Barrister-at-Law; the **Game Precedents** by C. S. GREAVES, Esq. Barrister-at-Law, Q. C.; the **Lunacy Precedents** by J. F. ARCHBOLD, Esq. Barrister-at-Law; and the **Servants Precedents** by C. S. GREAVES, Esq. Barrister-at-Law, Q. C. The **Poor Law Forms** by W. G. LUMLEY, Esq. Barrister-at-Law, and the **Refreshment Houses and Adulteration of Food Forms** by J. A. FOOT, Esq. Barrister-at-Law.

Alehouses.

Annual Licensing.—9 Geo. 4, c. 61, s. 2.

- A. Precept from the justices to the high constable, appointing the day for holding the general annual licensing meeting.
- B. Ditto, from the high to the petty constables
- C. Ditto, from the petty constables to the justices, and persons keeping alehouses, or having given notice of their intention so to do

Alehouses—continued.

- D. The like for church doors, &c.
- E. Annual licence, s. 13, endorsed for transfer, under 5 & 6 Vict. c. 44
- F. Caution to publicans, to be stuck up in their houses, containing abstract of the Alehouse Act, &c.
- G. Certificate of good behaviour
- H. Notices to publicans, under 11 & 12 Vict. c. 49; and 18 & 19 Vict. c. 118.

Transferring Licences.—9 Geo. 4, c. 61.

- 1 Precept from justices to the high constable to issue precepts to the petty constables to give notice of the sessions for transferring licences
- 2 Ditto, from the high to the petty constables
- 3 Ditto, from the petty constable to the magistrates and persons keeping alehouses, &c.
- 4 Ditto, for the church doors, &c.
- 6 Notice to the overseers of the poor, &c., from the person wishing to transfer his licence, s. 11.
- 7 Notice to be affixed on the door of the house, and of the church or chapel, or on some other conspicuous place, when it is intended to apply for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house not theretofore kept as an inn, alehouse, or victualling-house, s. 10
- 8 Transfer licence, s. 4
- 8A.—Authority from the holder of a licence to a broker or other person to transfer such licence

Selling without a Licence.—9 Geo. 4, c. 61, s. 18.

- 8*Information for selling ale, beer, or spirits, without a magistrate's licence
- 9 Summons
- 9*Summons of a witness
- 10 Conviction
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- 13 Commitment

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- 30 Summons
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- 32 Warrant of distress
- 33 Commitment
- 34 Warrant to apprehend for want of distress

Trading on Sunday during prohibited hours.

11 & 12 Vict. c. 49, and 18 & 19 Vict. c. 118.

- 35 Information
- 36 Summons
- 37 Conviction
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- 39 Commitment

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23 & 24 Vict. c. 84.

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- 2 General form of recognizance to try an appeal against a conviction—See title "*Recognizance*"

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- 16 Complaint thereon that the money has not been paid—32 Geo. 3, c. 57, s. 11
- 17 Warrant of distress
- 18 Complaint for not delivering up clothes, s. 11
- 18*Summons
- 19 Order
- 20 Warrant of distress
- 28 Warrant against an apprentice for running away from his master—5 Eliz. c. 4, s. 47; 24 Geo. 2, c. 55, s. 1
- E. Complaint of an apprentice against his master—5 Eliz. c. 4, s. 35
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- G. Discharge of the apprentice where the master appears to answer
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- M. Commitment
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- 1 Information for an assault
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- 4 Commitment

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- 3 Conviction
- 4 Commitment

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- 6 Commitment
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- 3 Warrant
- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Keeper of Betting House Receiving Money on a Bet, Sect. 4.

- 1 Information
- 2 Summons
- 3 Warrant

Betting Houses—continued.

- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Keeper of Betting House receiving Money, on an Agreement to pay Money on the event of a Horse Race, &c.

- 1 Information
- 2 Summons
- 3 Warrant
- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Keeper of Betting House, on Receipt of Money giving an Acknowledgment entitling Bearer or other Person to receive Money on the event of a Horse Race, &c.

- 1 Information
- 2 Summons
- 3 Warrant
- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Advertising Betting Houses, Sect. 7.

- 1 Information
- 2 Summons
- 3 Warrant

Betting Houses—continued.

- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Exhibiting Placards to induce Persons to resort to a Betting House.

- 1 Information
- 2 Summons
- 3 Warrant
- 4 Warrant in the first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by Imprisonment

Inviting Persons to resort to Betting Houses.

- 1 Information
- 2 Summons
- 3 Warrant
- 4 Warrant in first instance
- 5 Conviction for a Penalty, and in default of Payment, Imprisonment
- 6 Conviction when the Punishment is by Imprisonment
- 7 Warrant of Commitment upon a Conviction for a Penalty
- 8 Warrant of Commitment upon a Conviction where the Punishment is by imprisonment

Billiards.

GAME and WAGERS ACT, 8 & 9 Vict. c. 109.

Annual Licensing.

- 1 Precept from the justices to the high constable, appointing the day for holding the general annual licensing meeting, under s. 10

Billiards—continued.

- 2*Precept from the high constable to the petty constables, notifying the days for holding the general annual licensing meeting, under s. 10
- 2 Precept from the petty constables to the justices and persons keeping houses for public billiard playing, or having given notice of their intention so to do, under s. 10
- 3 Ditto, the like for church or chapel doors
- 4 Notice of intention to apply for licence, under s. 10
- 5 Annual licence

Transfer Licences.

- 6 Precept from the justices to the high constable to issue precepts to the petty constables to give notice of the sessions for transferring licences
- 7 Ditto, from the high to the petty
- 8 Ditto, from the petty to the magistrates and persons keeping billiard tables
- 9 Ditto, for the church or chapel doors
- 10 Notice to the overseers of the poor from the person wishing to transfer his licence
- 11 Notice to be affixed on the door of the house and of the church or chapel, &c., when it is intended to apply for licence for public billiard playing, &c.
- 12 Transfer licence
- 13 Authority from the holder of a licence to a broker or other person to transfer such licence

Borough Rate, see title Corporations (Municipal).**Bread.**

- 1 Information to ground search warrant—6 & 7 Will. 4, c. 37
- 1* Ditto, after seizure
- 2 Summons
- 3 Conviction
- 4 Warrant of distress
- 5 Commitment

Bridges.

- 1 Order of two justices to repair a county bridge, with certificate to be returned to the sessions—52 Geo. 3, c. 110, ss. 1, 2

Burial of Dead Human Bodies cast on Shore.

1 Order for reimbursement—48 Geo. 3, c. 75, s. 6

Carts, see title Highways.

Church Rates.

53 Geo. 3, c. 127, s. 7.

- 1 Complaint to one magistrate against a person for not paying the church rate
- 2 Summons
- 2A Ditto, for several rates
- 3 Order
- 4 Warrant of distress
- 5 Commitment

Clerks of the Peace.—(Indictments.)

Felonies and Misdemeanors against Individuals.**I. Offences against their Persons.**

- 1 Murder
- 2 Manslaughter
- 3 Attempts to murder
- 4 Administering Poison
- 5 Stabbing, cutting, wounding
- 6 Shooting at, or attempting to drown, suffocate, or strangle
- 7 Shooting at, stabbing, cutting, or wounding with intent to do Bodily Harm
- 8 Assault, doing Bodily Harm
- 9 Sending explosive substances to, or throwing explosive fluids on, a Person, to disable, &c.
- 10 Placing explosive substances near Buildings or Vessels, to do Bodily Harm
- 11 Setting Spring Guns
- 12 Attempt to procure Abortion
- 13 Concealment of Birth
- 14 Rape
- 15 Carnally knowing a Girl under 10
- 16 Carnally knowing a Girl between 10 and 12
- 17 Procuring the Defilement of Women

Clerks of the Peace—continued.

- 18 Unnatural Offences
- 19 Assault with intent to commit Rape
- 20 Assault with intent to commit unnatural Offence
- 21 Indecent Assault
- 22 Forcible Abduction
- 23 Child Stealing
- 24 Assault and Battery
- 25 Assault on Justices, &c., in case of Wreck
- 26 Assault on Peace or Revenue Officers
- 27 Assault to prevent Apprehension
- 28 False Imprisonment

II. Offences against their Reputation.

- 29 Libel
- 30 Knowingly publishing a false personal Libel
- 31 Threatening to publish Libel, to extort Money
- 32 Threatening to accuse a person of Crime, with intent to extort
- 33 Accusing or threatening to accuse, and thereby extorting

III. Offences against their Habitations, &c.

- 34 Breaking into a Building within the curtilage, in the night time, with intent, &c.
- 35 Breaking into a Dwelling-house in the day time, and stealing
- 36 Breaking into a Shop or Warehouse, and stealing
- 37 Breaking into a Church or Chapel, and stealing
- 38 Persons found at night with Implements of House-breaking, &c.

IV. Offences against their Property, by Larceny, &c.

Larceny.

- 39 Larceny of Money, Goods, or Chattels

Stealing valuable Securities.

- 40 Securities for Money, Warrants for Goods
- 41 Writings relating to real Estate
- 42 Wills
- 43 Records and other Proceedings of Courts of Justice

Clerks of the Peace—continued.

Stealing Cattle and other Animals.

- 44 Stealing Horses, Cows, Sheep
- 45 Killing them with intent to steal
- 46 Stealing Deer
- 47 Killing Hares or Conies in Warrens by night
- 48 Taking Game by night
- 49 Stealing Dogs, 2nd Offence
- 50 Taking Fish in Water belonging to a Dwelling-house
- 51 Stealing Oysters from Oyster Beds

Stealing things fixed to the Freehold.

- 52 Stealing Trees, Shrubs, &c.
- 53 Stealing Glass, Woodwork, Fixtures, &c.
- 54 Stealing from Mines

Stealing from the Person.

- 55 Robbery
- 56 Attempt to rob
- 57 Stealing from the Person
- 58 Demanding Money with Menaces or by Force
- 59 Using Chloroform with intent, &c.

Stealing in a Dwelling-house or Building.

- 60 Stealing in a Dwelling-house to value of £5
- 61 Stealing in a Dwelling-house, some person therein being put in fear
- 62 Stealing Goods in Process of Manufacture

Stealing from Ships, Wharfs, &c.

- 63 Stealing from Ships, Docks, Wharfs, &c.
- 64 Stealing from Ship in distress or wrecked

Stealing by Clerks or Servants, Tenants, &c.

- 65 Stealing by Clerks or Servants
- 66 Stealing by Tenants or Lodgers

Embezzlement.

- 67 Embezzlement by Clerks or Servants
- 68 Embezzlement by Bankers, Brokers, Agents, &c.
- 69 Embezzlement by Officers in the Queen's Service

Clerks of the Peace—continued.

Cheating or Defrauding.

- 70 False pretences
- 71 Personating Soldiers or Seamen
- 72 Receiving Stolen Goods
- 73 Receiving Goods obtained by false pretences
- 74 Purchasing Anchors, &c. swept for or found at Sea

Piracy.

- 75 Piracy

V. Against their Property, by Malicious Injuries.

Malicious Injuries to Buildings and Things Fixed to the Freehold.

- 76 Setting Fire to Church, House, Farm Buildings, Manufactory
- 77 Destroying Buildings by Gunpowder, &c.
- 78 Destroying Machinery and Goods in process of Manufacture
- 79 Setting Fire to Stacks, Crops, Trees, &c.
- 80 Drowning Mines, destroying Engines, &c.
- 81 Malicious Injuries to Rivers, Canals, Ponds, &c.
- 82 Malicious Injuries to Public Bridges
- 83 Malicious Injuries to Turnpike Gates, &c.
- 84 Malicious Injuries to Works of Art
- 85 Malicious Injuries to Cattle

Malicious Injuries to Ships and Wreck.

- 86 Setting Fire to Ships
- 87 Damaging Ships, otherwise than by fire
- 88 Exhibiting false Lights or Signals
- 89 Destroying Wreck
- 90 Impeding a Person saving himself from Wreck
- 91 Destroying Buoys, &c.
- 92 Malicious Injuries in respect of Railways

VI. Forgery.

Forgery of Public Instruments.

- 93 Forgery of Exchequer Bills, and Paper for them
- 94 Forgery of Bank of England Notes, and Paper for them
- 95 Forgery of Notes of other Bankers, and Paper for them
- 96 Forgery of India Bonds

Clerks of the Peace—continued.

Forgery of Public Instruments—continued.

- 97 Forgery of Court Rolls
- 98 Forgery of Public Documents

Forgery of Private Instruments.

- 99 Forgery of Deeds, Bonds, Bills, Notes, Cheques, Receipts, &c.
- 100 Forgery of Policy of Insurance
- 101 Forgery of Wills or Muniments of Title
- 102 Forgery of Seals of Corporations, &c.
- 103 Forgery at Common Law

Forgery of Foreign Instruments.

- 104 Forgery of Foreign Bank Notes, &c.
- 105 Forgery of other Foreign Instruments

Offences immediately against the Queen or her Government.

I. Treason.

- 106 Treason

II. Felonies.

- 107 Compassing to depose the Queen or levy War
- 108 Discharging or aiming Fire Arms, or throwing or using any offensive matter or weapon, to injure or alarm the Queen

III. Sedition.

- 109 Sedition
- 110 Seditious Libels
- 111 Seditious Assemblies
- 112 Administering or taking unlawful Oaths
- 113 Unlawful Combinations and Confederacies
- 114 Attending to train or be trained to Arms

IV. Aiding Foreign Powers without Licence from the Crown.

- 115 Entering into Foreign Service, or enlisting others
- 116 Fitting out Vessels for Foreign Powers
- 117 Aiding Prisoners at War to escape
- 118 Libels on Foreign Dignitaries

V. Offences relating to the Navy or Army.

- 119 Inciting to Mutiny
- 120 Burning or destroying Ships of War, Dockyards, &c.
- 121 Embezzling, stealing, or receiving stores

Clarks of the Peace—continued.**VI. Offences relating to the Revenue.**

122 Smuggling

VII. Offences relating to the Post Office.

123 Stealing or embezzling Letters

124 Stealing from a Letter

125 Receiving Letters so stolen

126 Opening or delaying Letters

127 Stealing or detaining Notes or Newspapers

VIII. Offences relating to the Stamps.

128 Forging Stamps

IX. Offences relating to the Public Funds.

129 Forging Transfers

130 False Personation of Stockholders

131 Offences by Officers

132 Forging the Seals

133 Counterfeiting or uttering the current Coin

134 Counterfeiting or uttering Foreign Coin

135 Counterfeiting or having Implements of Coinage

X. Sale of Public Offices.

136 Sale of Public Offices

Felonies and Misdemeanors of a Public Nature.**I. Offences against Public Justice.**

137 Libel reflecting on the administration of Justice

138 Conspiracy to obstruct the course of Justice

139 Embracery

140 Extortion

141 Disobeying Justice's Order

142 Compounding Felony

143 Taking reward for helping to stolen Goods

144 Returning from Transportation

145 Breaking Prison

146 Escape

147 Rescue

148 Personating Bail, &c.

149 Perjury and Subornation

II. Offences against the Public Peace.

150 Riot

151 Riotously beginning to demolish House

Clerks of the Peace—continued.

II. Offences against the Public Peace—continued.

- 152 Affray
- 153 Forcible Entry
- 154 Letter threatening to murder or set fire to House
- 155 Administering or taking Oath to commit a Capital Offence
- 156 Challenge to fight

III. Offences against Public Trade.

- 157 Fraudulent Bankruptcy
- 158 Offences relating to Merchant Seamen
- 159 Preventing the conveyance of Corn, &c.
- 160 Preventing Seamen or Keelmen from working
- 161 Assault in pursuance of Conspiracy to raise Wages

IV. Offences against Public Health.

- 162 Exposing persons in public places who are infected with Disease
- 163 Nuisance by noxious Trades, &c.

V. Offences against Police and Public Economy.

- 164 Bigamy
- 165 Obscene Libel
- 166 Open Lewdness and Indecency
- 167 Gaming House, Bawdy House, &c.
- 168 Obstructing or not repairing Highways or Bridges

IX. Conspiracy.

X. Subsequent Felonies.

XI. Attempt to Commit Offences.

Commitments, General.

- 1 Commitment to the house of correction
- 2 Ditto to the common gaol
- 3 General form of commitment,—four forms on a sheet
- 3A Ditto central criminal court
- 4 Commitment after indictment found, on certificate of clerk of the arraigns, one of the party having been tried and convicted

Commitments, General—continued.

General liberate of one committed

The same form as No. 3, with larger blank for inserting the offence,—two forms on a sheet

Form of commitment of a person for further examination

General form of commitment on non-payment of penalty

Constables.

Irish.

- 1 Notice by clerk to justices of special sessions for appointment of constables, 7 & 8 Vict. c. 33, s. 7; 13 Vict. c. 20, s. 4.
- 3 Justices' precept to overseers with notice, 5 & 6 Vict. c. 109, ss. 2, 3, 10
- 3A Summons of vestry
- 4 List of persons nominated in vestry to serve as constables, original list, ss. 3, 8
- 4B Ditto, Half Sheets
- 4A Copies
- 4C Ditto, Half Sheets
- 5 High constable's notice to justices of session for uniting parishes, &c., s. 4
- 6 Order of justices to unite, &c., s. 4
- 7 Appointment of constables, s. 11. *Whole sheets to contain about 30 names. Ditto, Half sheets to contain about 15 names.*
- 7A Ditto, Half Sheets, with the duties of the Office of Constable
- 8 Appointment of substitutes, s. 16
- 9 Summons to constables to take oath of office, s. 2
- 10 Information against person chosen as constable, refusing to attend to be sworn, s. 13
- 11 Summons
- 12 Conviction
- 13 Warrant of distress
- 13A Constable's oath
- 13B Ditto, with the Duties of the Office of Constable
- 14 List of constables to be returned to justices and clerk of the peace, s. 14. *Whole sheets to contain about 30 names. Half sheets to contain about 15 names.*
- 15 List of constables to be affixed on the church-doors, s. 14
- 16 Notice of overseers to a justice of death or disqualification of constable, s. 16

Parish. Constables—continued.

- 17 Clerk to Justice's notice of petty sessions for supplying vacancy, 13 Vict. c. 20, s. 4
- 18 Summons to person intended to supply vacancy, 5 & 6 Vict. c. 109, s. 16
- 19 Justices' order for payment of fees in gross to constables
- 19A Justices' order for payment of a single fee or fees in gross to clerks to justices or constables.
- 20 Appointment of paid constable, s. 19
- 21 Information against overseers for neglecting to sign a list, &c., s. 9
- 22 Summons
- 23 Conviction
- 24 Warrant of distress

Special.

- 1 Summons to appear and be sworn in as a special constable—1 & 2 Will. 4, c. 41; 5 & 6 Will. 4, c. 43
- 2 Appointment
- 3 Certificate of appointment
- 4 Information against a special constable
- 5 Summons
- 6 Conviction
- 7 Warrant of distress
- 8 Commitment
- 9 Order on the county treasurer for payment of expenses
- 10 Order for payment of expenses in providing necessary articles

Expenses of conveying Offenders to Prison.

- 2 Order of charges for conveying offenders to gaol, or to the house of correction—3 Jac. 2, c. 10, s. 1; 27 Geo. 2, c. 3, ss. 11, 81
- 2*Ditto,—*Middlesex*
- 12 Allowances, with the items of his 'bill, and the order upon the treasurer for the amount—*General*
- 12A.—Ditto—*Essex*
- 12B.—Ditto, with governor's receipt for the prisoner—*Surrey*

County District.

- 1 Information against a constable for neglect or violation of duty—2 & 3 Vict. c. 93
- 2 Summons
- 3 Conviction

Constables—continued.**County District.**

- 4 Commitment
- 5 Information against a publican for harbouring a constable under s. 16
- 6 Summons
- 7 Conviction
- 8 Appointment of local constables

Just.

- A. Precept from justices to high constables, to give notice to the petty constables, of the special sessions for swearing in persons nominated to be constables
- B. Notice from the high to the petty constable thereon
- C. List of persons to be returned to the justices
- D. Petty constable's notice to the persons contained in the list

Railway.

- 1 Application for appointing of railway constables
- 2 Appointments thereon

High.

- 1 High constable's appointment, with oath of office, when not present—7 & 8 Vict. c. 33.
- 2 Ditto when present

Coroner.

- 1 Coroner's warrant to summon a jury
- 2 Inquisition (paper and parchment)
- 2B Ditto, 14 & 15 Vict. c. 100, murder or manslaughter
- 2A Ditto central criminal court
- 3 Burial warrant after the view, and receipt for expenses at inquests
- 7 Order to bury a *felo-de-se*
- 8 Warrant to take up a body interred, supposed to have come to a violent death
- 9 Warrant to apprehend a person for murder or manslaughter
- 10 Commitment
- 10A Ditto central criminal court
- 11 Detainer
- 11A Ditto central criminal court
- 12 Summons of a witness
- 16 Warrant to commit a person examined before the coroner's inquest, and after signing his information refusing to enter into a recognizance to appear, and give evidence at session
- 17 Recognizance to appear, prosecute, and give evidence in a case of manslaughter or murder (paper and parchment)

Coroner—continued.

- 17A Ditto central criminal court
- 27 Ditto of bail in cases of manslaughter—22 Vict. c. 33
- 28 Ditto Notice ditto
- 17B Coroner's order for burial, under 6 & 7 Will. 4, c. 86
- 18 Witnesses' depositions
- 19 Constable's summons for a jury upon a warrant from the coroner
- 20 Coroner's summons of a medical witness—6 & 7 Will. 4, c. 89, s. 1
- 25 Coroner's bill of costs
- 26 Certificate to fine juror

Corporations (Municipal).

- 55 Notice of election—22 Vict. c. 35
- 56 Nomination paper, ditto
- 57 List of persons nominated to be placed on the door of the Town Hall, &c.
- 58 List of persons elected.

For Boroughs without Wards.

- 1 The freemen's roll book, calf, lettered
- 2 Notice of court for revision of burgess lists
- 3 Book of burgess roll, calf, lettered
- 4 Voting paper for councillors, whole sheets
- 4a Poll books for ditto
- 5 Voting paper for assessors

For Boroughs with Wards.

- 5a Poll books
- 6 Voting papers for auditors
- 6a Poll books for ditto
- 7 The freemen's roll book, calf, lettered
- 8 Notice of court for revision of burgess lists
- 9 Book of ward lists, calf, lettered
- 10 Voting paper for councillors
- 10a Poll books for ditto
- 11 Voting paper for assessors
- 11a Poll books for ditto
- 12 Voting papers for auditors
- 12a Poll books for ditto
- 14 Book containing declarations to be made by mayors, &c. calf, lettered
- 15 Notice to mayor, &c., of election
- 16 Notice of disqualification
- 17 Minute book, calf, lettered
- 18 Notice of council meetings

Corporations (Municipal)—continued.

- 19 Summons to councillors
- 20 Night constable's book, calf, lettered
- 20a Recognizance to be taken by night constable
For the appointment of Constables, Notice of ditto, and Dismissal,
see Nos. 35, 36, and 37.
- 21 Appointment of special constables
- 22 Notice of appointment
- 22a Warrant requiring special constables to act
- 23 The list of burgesses of the borough to be made out by the
overscers of the poor, titles and infolds
- 24 Notices of claims by parties
- 25 Notice of objection against parties
- 26 List of persons objected to, to be made out by the town clerk,
titles and infolds
- 27 List of persons claiming to have their names inserted, to be
made out by the town clerk, titles and infolds
- 28 Precept for holding quarter sessions
- 29 Summons to serve on grand jury
- 29a Ditto on petty jury
- 30 Lists for entering names of persons summoned
- 31 Book containing declaration required to be made pursuant to
the Act 9 Geo. 4, c. 17, intituled, "An Act for repealing
so much of several Acts as imposes the necessity of receiving
the Sacrament of the Lord's Supper as a qualification
for certain offices and employments," calf, lettered
- 32 Book containing declaration to be made by mayors, &c. under
5 & 6 W. 4, c. 76, s. 50, with the declaration required to
be made pursuant to the Act 9 Geo. 4, c. 17, ss. 2, 3,
calf, lettered
- 32 B.—The oaths and declarations to be taken, subscribed, and
made by recorders and justices at the general or quarter
sessions of the peace, in addition to the declaration pre-
scribed by the 5 & 6 W. 4, c. 76, s. 104
- 32 C.—Book containing declarations to be made by mayors,
aldermen, or councillors, being Quakers, Moravians, or
Separatists, pursuant to the Act 1st Vict. calf, lettered
- 33 Ledger, to be kept by the town clerk, &c. for the entry of
monies received and paid, (sec. 60) rough calf, Russia
bands, alphabet, 2-joint clasps, and lined at the bottom
with brass
- 34 Borough fund book, to be kept by the treasurer, (sec. 92)
rough calf, Russia bands, alphabet, 2-joint clasps, and lined
at the bottom with brass

Corporations (Municipal)—continued.

- 35 Appointment of constables by watch committee
 - 36 Notice of appointment of constables by watch committee, to be affixed on the town hall and every church within the borough
 - 37 Dismissal or suspension of constables for neglect
 - 38 Minute book of the watch committee, rough calf, and lettered
 - 39 Summons to watch committee, to attend the meetings of the committee, printed as notes
 - 40 Treasurer's cash book, rough calf and lettered
 - 41 Treasurer's ledger, rough calf, Russia bands, alphabet, 2-joint clasps, and lined at the bottom with brass
 - 42 Town clerk's cash book, rough calf and lettered
 - 43 Council precept to high constable to collect borough rate
 - 44 High constable's warrant to levy borough rate
 - 45 Information against overseers for not paying borough rate
 - 46 Summons
 - 47 Warrant of distress
 - 48 Information by churchwardens and overseers against persons for not paying borough or watch rate
 - 49 Summons
 - 50 Warrant of distress
 - 51 Appointment of overseers in parishes partly within and partly without the city or borough, or extra parochial place, to collect borough rate
 - 52 Information against persons not paying borough or watch rate, living in parishes, part of which only is in the borough, or city, or extra parochial place
 - 53 Summons
 - 54 Warrant of distress
- The freemen's roll, burgess lists, and burgess roll, copied agreeably to sections 5, 22, 45

TABLES OF FEES,

To be taken by the clerks of the peace, clerks to the justices, and by the registrars and officers of courts of record

CORPORATION SEALS,

With crown and name of corporation, on brass, and on steel

Court Port and Court Baron.

- 1 Precept from steward to bailiff for holding court and summoning tenants
- 2 Bailiff's notice and summons to tenants
- 3 Bailiff's notice to be affixed on the church doors
- 4 Quit rent receipts
- 5 Steward's fee check receipt books

Criminal Justice Act.

18 & 19 Vict. c. 126.

- A. Conviction, s. 1
- B. Certificate of dismissal, s. 1
- C. Conviction upon the plea of guilty, s. 3
- D. Warrant of commitment, ss. 1, 2
- O. Warrant of commitment, s. 3
- E. Statement of the accused, s. 2
- F. Ditto s. 3
- G. Examination of witnesses, ss. 1, 2, and 3, whole and half sheets
- H. Remand to next petty sessions, s. 5
- I. Recognizance of bail, s. 5
- K. Recognizance and certificate of non-appearance, s. 6
- L. Notice of petty sessions, s. 9
- M. Certificate of expenses, &c., s. 14
- N. Register of proceedings at petty sessions, in books of one quire, strongly bound
- P. Certificate of expenses, &c. at quarter sessions

Debating Societies.

- 1 Notice of session for licensing houses in which lectures are intended to be delivered, or in which persons are to be admitted for the purpose of reading newspapers, &c. by payment of admission money—39 Geo. 3, c. 79
- 2 Licence thereon

Deserted Premises, see title Distress, also Metropolitan Police Courts.

Discharge, see Commitment. Sureties.

Disorderly Houses.

(*Bawdy, or other Disorderly Houses.*)

- 1 Notice by two inhabitants to the constable, and to the overseers of the poor to ground a prosecution—25 Geo. 2, c. 36, s. 5; 58 Geo. 3, c. 70, s. 7
- 2 Affidavit of the truth of the notice given before a justice of the peace, with the notice annexed
- 3 Constables' or overseers' recognizance to prosecute
- 4 Warrant to apprehend the keeper, s. 6
- 5 Commitment for want of surety
- 6 Recognizance of two inhabitants to give or produce evidence

Dissenters.

- 1 Oath and declaration to be taken and made by dissenting ministers before a justice of the peace, with the justice's certificate thereon—1 C. 1, st. 2, c. 13; 6 Geo. 3, c. 53; 19 Geo. 3, c. 44; 52 Geo. 3, c. 155

Distress.

11 Geo. 2, c. 19, s. 4.

Fraudulent removing of Goods.

G. Complaint to recover the penalty against a *Tenant* for fraudulently and clandestinely removing his goods; or against a *Tenant* for fraudulently removing his goods, and *others* knowingly assisting him therein, to prevent distress

H. Summons

K. Order

L. Conviction

M. Warrant of distress

N. Commitment

- 10 Complaint in case of goods and chattels being fraudulently and clandestinely removed and conveyed away, and secured in a dwelling house, to prevent them from being taken and seized as a distress for arrears of rent, s. 7

- 11 Warrant to seize the same

Distress—continued.**Rent.**

- 12 Authority from the landlord or landlady to a broker, or any other person, to make a distress for rent
- 13 Inventory of goods distressed for rent
- 14 Warrant of distress for expenses where a person is committed to gaol—57 Geo. 3, c. 93, s. 2

Deserted Premises.

- 16 Notice to be affixed on the premises being deserted—11 Geo. 2, c. 19, s. 16; 57 Geo. 3, c. 92
- 17 Record of putting the landlord in possession
- 19 Information and complaint to recover possession of deserted premises upon view of two justices where no sufficient distress can be made to countervail arrears of rent

Notice to Quit.

- 26 Notice to tenants to quit possession of tenements, &c. for yearly tenants
- 26*The like for weekly

Costs.

- 27 Complaint against a person taking more costs than are allowed in distress for rent—57 Geo. 3, c. 93, s. 2
- 28 Summons
- 29 Order and judgment
- 30 Warrant of distress
- 31 Commitment
- 32 Order and judgment of the justice, where he dismisses the complaint

Divorce and Matrimonial Act.

20 & 21 Vict. c. 85, s. 21.

- A. Order of Petty Sessions, protecting the earnings and property of a married woman deserted by her husband—s. 21
- B. Order discharging a former order to protect the property of a married woman deserted by her husband
- C. Complaint
- D. Summons

Dogs.

- 1 Information against a person for stealing a dog—8 & 9 Vict. c. 47
- 2 Summons
- 3 Conviction

Dogs—continued.

- 4 Commitment
- 5 Information to ground search warrant
- 6 Search Warrant
- 7 Conviction
- 8 Commitment
- 9 Conviction where defendant brought up without summons
- 10 Commitment
- 11 Recognizance when suffered to go at large

Drunkenness.

21 Jac. 1, c. 7, ss. 1, 3.

Also see 23 Vict. c. 27, page 87.

- 19 Information for drunkenness
- 20 Summons
- 21* Conviction
- 23 Warrant to levy the penalty
- 24 Commitment to the stocks
- 25 Warrant to levy the penalty for tippling
- 26 Commitment to the stocks for tippling

Felony.

- 6 Allowance of prosecutor's and witnesses' expenses attending to give evidence before a magistrate
- 7 Certificate of bailment
- 8 Specifications of allowances in felony
- 9 Certificates of justices' clerks' fees

Fences, Stealing of, see title Trees.**Fines and Recoveries.**—(*Settled and approved by the Office Authorities.*)

- 1 Affidavit verifying the certificate of acknowledgment, to be made by an attorney, (not being a commissioner taking the acknowledgment,) where no provision is made
- 2 The same, where a provision is made
- 3 To be made by a third party, (either an attorney or not) and by an attorney, (not being the commissioner taking the acknowledgment) where no provision is made
- 4 The same, where a provision is made
- 5 To be made by one of the commissioners taking the acknowledgment, (such commissioner not being interested in the transaction giving occasion for such acknowledgment, or

Fines and Recoveries—continued.

concerned therein as the attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent, so interested or concerned,) where no provision is made

- 5*The same, for two parties
- 6 The same, where a provision is made: one party
- 7 To be made by a third party (either an attorney or not) and by a commissioner (not being interested or concerned,) where no provision is made
- 8 The same, where a provision is made
- 9 Certificates of acknowledgment of fines
- 10 Ditto, plural
- 11 Affidavit to be made by special commissioner where no provision is to be made.
- 12 Affidavit, verifying the certificate of acknowledgment by a special commissioner where a provision is to be made.
- 13 Notarial certificate.
- 14 Special commissioner's certificate.

Fish.**Taking.**

- A. Information for taking, &c., or attempting to take, &c., fish in water not running through nor being in any land adjoining or belonging to the dwelling house of the owner of the said water, such water being private property, or a private right of fishery being therein—
7 & 8 Geo. 4, c. 29, s. 34
- B. Summons
- C. Warrant
- D. Conviction
- E. Commitment

Angling in the Day-time.

- 21 Information
- 22 Warrant
- 23 Conviction where the party aggrieved has *not* been examined in proof of the offence
- 24 Commitment
- 25 Conviction where the party aggrieved has been examined in proof of the offence
- 26 Commitment

Forcible Entry and Detainer.

- 1 Record of a forcible detainer upon view—8 Hen. 6, c. 9, s. 3
- 2 Mittimus for forcible detainer
- 3 Precept to the sheriff to return a jury, s. 4

Forcible Entry and Detainer—continued.

- 4 The jurors' oath
- 5 The inquisition, indictment, or finding of the jury
- 6 Warrant to the sheriff for restitution, s. 3

Game.

2 Geo. 3, c. 93, rule 11.

Certificate Act.

- 52 Information to be exhibited before two commissioners or one justice of the peace, being a commissioner, for not producing a certificate on demand, &c.
- 53 Information to be exhibited before two commissioners or one justice of the peace, being a commissioner, for using a dog, net, gun, &c., without having taken out a certificate.
- 54 Summons
- 56 Conviction
- 57 Warrant
- 58 Commitment

Rabbits.

- 60 Information against a person for killing rabbits, without having a game certificate, not being the proprietor or tenant of the land, or having authority so to do, rule 12
- 61 Summons
- 62 Conviction
- 63 Warrant of distress
- 64 Commitment

Warrens, &c.—7 & 8 Geo. 4, c. 29, s. 30.

- 66 Information against a person for taking or killing hares or conies in warrens or breeding grounds, in the day-time
- 67 Warrant
- 68 Conviction
- 69 Commitment
- 70 Information against a person setting snares, or engines for taking hares or conies, in warrens or breeding grounds
- 71 Warrant
- 72 Conviction
- 73 Commitment

Game—continued.

Settled by C. S. GREAVES, Esq. Q. C.
1 & 2 Will. 4, c. 32.

Licence to Sell.

3 Certificate of fitness of a person applying for licence,
s. 18

4 Licence to sell game

Trespassing in Search of.

A. Information against a person or persons for trespassing
upon land, in search of game, s. 30

B. Summons

C. Warrant

D. Conviction, by one justice

E. Commitment, by one justice

Killing without Certificate.

F. Information for killing game without a certificate, for
the cumulative penalty, s. 23

G. Summons

H. Warrant

I. Conviction, by two justices

J. Commitment, by one justice

Killing on Sunday.

K. Information for killing, or taking, or using dogs, &c.
kill or take game on Sunday or Christmas-day, s. 3

L. Summons

M. Warrant

N. Conviction, by two justices

O. Commitment, by one justice

Out of Season.

P. Information for killing, or taking game after the season
and time allowed, s. 4

Q. Summons

R. Warrant

S. Conviction, by two justices

T. Commitment, by one justice

Selling without Certificate.

U. Information for selling game, against a person not
having a game certificate, nor being licensed to deal
in game, s. 19

V. Summons

W. Warrant

X. Conviction, by two justices

Y. Commitment, by one justice

Game—continued.**Buying, unlawfully.**

Z. Information against a person NOT being licensed to deal in game, for buying of a person not being allowed to sell, s. 27

AA. Summons

BB. Warrant

CC. Conviction, by two justices

DD. Commitment, by one justice

Penalties against Licensed Persons.

N.B. This set of forms may be made applicable to offences which can be committed under the Act by persons (not being licensed), except the offence of buying.

EE. Information against a person LICENSED TO DEAL IN GAME, for offences against the Act. s. 28

FF. Summons

GG. Warrant

HH. Conviction, by two justices

II. Commitment, by one justice

Occupier killing.

JJ. Information against an occupier of land under lease or agreement, killing or taking game, the same not being expressly granted or allowed by his lease or agreement, or being contrary to his lease, s. 12

KK. Summons

LL. Warrant

MM. Conviction, by two justices

NN. Commitment, by one justice

25 Notices to warn persons against trespassing—printed with fly-leaves, to be sent as letters

26 Notices to warn persons against trespassing—printed on a whole sheet of paper for posting

Night Poaching.—9 Geo. 4, c. 69, s. 1, and 8 Vict. c. 29.

A. Information for taking or destroying game in the night

B. Information for entering by night into open or inclosed land with a gun, net, engine, or other instrument for the purpose of taking or destroying game

C. Warrant to apprehend the defendant, drawn to suit either of the above cases

D. Conviction of defendant, drawn to suit either of the above cases

Game—continued.**Night Poaching—continued.**

- E. Commitment of defendant; drawn to suit either of the above cases
- F. Information for *second offence*, to suit either of the above cases
- G. Warrant
- H. Conviction
- I. Commitment
- K. Recognizance to be entered into by the offender before his discharge, for destroying game in the night, with one or two sureties, not to offend again for one year for the first offence, or two years for the second, drawn to suit either of the above cases
- L. Notice of having entered into such recognizance, to be served on the party bound not so to offend again for the time specified in the recognizance
- M. The like to be served on the surety or sureties
- N. Information against three or more persons for a misdemeanor in entering *together* into land, for the purpose of taking or destroying game or rabbits, any of such persons being armed with a gun or other offensive weapon, s. 9
- O. Warrant
- P. Commitment for want of sureties

Gaming Houses.

8 & 9 Vict. c. 109; and 17 & 18 Vict. c. 38

- 1 Information of house, &c. suspected to be used as a gaming house
- 2 Warrant to enter
- 3 Conviction for keeping gaming house, s. 4
- 4 Warrant of distress for penalty, s. 4
- 5 Commitment for non-payment, s. 4
- 6 Commitment where imprisonment adjudged in first instance, s. 4
- 7 Report in writing of police superintendent, of house suspected to be kept as a gaming house, s. 6
- 8 Warrant of Commissioner to enter, s. 6

Gaols and Houses of Correction.

The under-mentioned Books are required to be kept in all Prisons and Gaols, by the Prison Rules and Regulations.

Visiting Justices.

							Per Book.		
							£	s.	d.
1	Minute book	-	-	-	-	-	0	18	0
2	Order book	-	-	-	-	-	0	12	0

Governor.

3	Journal	-	-	-	-	-	0	18	0
4	Order book	-	-	-	-	-	0	10	0
5	Prison register—names, offences, description, felony	-	-	-	-	-	2	18	0
6	Prison register—names, offences, description, misdemeanor	-	-	-	-	-	2	18	0
7	Commitment and description book for the house of correction	-	-	-	-	-	2	14	0
8	General daily account	-	-	-	-	-	0	17	0
9	Provisional receipt and consumption account	-	-	-	-	-	0	19	0
10	Prisoners' property book	-	-	-	-	-	0	15	0
11	Prisoners' misconduct book	-	-	-	-	-	0	15	0
12	Visitors' book	-	-	-	-	-	0	15	0
13	Stock book	-	-	-	-	-	0	19	0
14	Account of fines and penalties	-	-	-	-	-	0	17	0
15	Calendar book	-	-	-	-	-	1	3	0
16	Discharge book	-	-	-	-	-	0	12	0
17	Number book of prisoners each day in the gaol	-	-	-	-	-	0	17	0
18	Ditto ditto ditto in the house of correction	-	-	-	-	-	0	17	0
19	Cheque order book	-	-	-	-	-	0	3	6
20	Notification of prisoner having paid penalty, and of his discharge	-	-	-	-	-	0	2	0
21	Weekly return book of prisoners, to be laid before the visiting justices and the quarter sessions	-	-	-	-	-	1	14	0
22	Return to be made by the governor to the clerk of the peace at every general quarter sessions of the peace	-	-	-	-	-	-	-	-
23	Application and memorandum book	-	-	-	-	-	0	13	0
23*	Non-resident officer's attendance book	-	-	-	-	-	0	15	0
	Clothing receipt book	-	-	-	-	-	1	10	0
	Clothing disbursement book	-	-	-	-	-	1	10	0

Gaols—continued.

Chaplain.	Per Book.		
	£	s.	d.
24 Chaplain's journal of attendance at the prison	0	15	0
24a Chaplain's journal of observations - - -	0	18	0
24b Prisoner's character book - - - -	1	10	0
Library catalogue, printed on superfine parchment, a book containing sufficient for the entry of the particulars of 200 different works - - - -	0	2	6
The like for 400 ditto - - - -	0	4	0

Patron.

25 Journal - - - - -	0	12	0
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Surgeon.

26 Surgeon's journal and attendance book -	1	10	0
27 Surgeon's journal, (No. 2.) - - -	1	6	0
35 Weekly Medical Return and Sick Diet Book -	1	12	0

Wardens (County).

28 Book for entering alterations required in the gaol and grounds - - - -	0	14	0
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The following Books will also be found very useful:—

29 Receiving book of prisoners committed, with particulars of their persons—males - -	1	14	0
30 The like for females - - - -	1	14	0
31 Receipt and disbursement book for stores -	1	5	0
32 Governor's disbursement book - - -	1	1	0
33 „ receipt book for goods sold, made by prisoners - - - -	1	1	0
34 Return of fines, penalties, &c. per quire, -	0	4	0
36 Stock received book - - - -	1	15	0
37 Stock distribution book - - - -	1	15	0
38 Register of health - - - -	1	1	0
39 Return to accompany the caption of a convict on his removal to a government prison - - - per quire -	0	4	0

Gaols—continued.

The New Regulations for Prisons in England and Wales, with the prescribed rates of diet for the different classes of prisoners.
Price 2s.

A Collection of all the Statutes and parts of Statutes now in force, relating to gaols and houses of correction in England and Wales, with notes, references, and a copious index. By D. KEANE, Esq., of the Middle Temple, Barrister-at-Law.—*Price 5s. 6d.* Second Edition.

Gardens, Orchards, &c.**Stealing in.**

- A. Information for stealing or damaging with intent to steal, 7 & 8 Geo. 4, c. 29, s. 42, or destroying or damaging with intent to destroy, 7 & 8 Geo. 4, c. 30, s. 21, any plant, root, fruit, or vegetable production growing in any garden, nursery ground, hot-house, green-house, or conservatory; stealing, or destroying, or damaging with intent to steal, destroying or damaging with intent to destroy, any cultivated root or plant, &c. growing in any land not being a garden,* &c.—7 & 8 Geo. 4, c. 29, s. 43; 7 & 8 Geo. 4, c. 30, s. 22
- B. Summons
- C. Warrant
- D. Conviction
- E. Commitment
- F. Conviction where imprisonment is adjudged instead of a pecuniary penalty
- G. Commitment
- H. Information for *second offence* for stealing or destroying, or damaging with intent to steal, or with intent to destroy any cultivated root or plant, &c. growing in *land not being a garden*—7 & 8 Geo. 4, c. 29, s. 43, and 7 & 8 Geo. 4, c. 30, s. 22
- J. Summons
- K. Warrant
- L. Conviction
- M. Commitment

Gardens, Orchards, &c.—continued.**Stealing in—continued.**

- N. Conviction where imprisonment is adjudged instead of a pecuniary penalty
- O. Commitment
- Caution against depredations in gardens, for *posting up*

Gates, see title Trees.**Hawkers and Pedlars.***For Trading without a Licence.*

- 1 Information—50 Geo. 3, c. 41, s. 17
- 2 Summons
- 3 Conviction
- 4 Warrant of distress
- 5 Commitment
- 6 Justices' return of penalties

For having "LICENSED HAWKER" without being so.

- 7 Information, s. 15
- 8 Summons
- 9 Conviction
- 10 Warrant of distress
- 11 Commitment

For acting contrary to Licence.

- 12 Information, s. 17
- 13 Summons
- 14 Conviction
- 15 Warrant of distress
- 16 Commitment

For not having the words "LICENSED HAWKER" painted.

- 17 Information, s. 14
- 18 Summons
- 19 Conviction
- 20 Warrant of distress
- 21 Commitment

Hawkers and Pedlars—continued.*For not producing License.*

- 22 Information, s. 20
- 23 Summons
- 24 Conviction
- 25 Warrant of distress
- 26 Commitment

Highways.

5 & 6 Will. 4, c. 50.

Appointment of Surveyors.

- 1 Notice to party of his having been elected surveyor
- 2 Appointment of deputy surveyor to be approved by justices, s. 8
- 4 Appointment of surveyor with a salary, s. 9
- 5 Appointment of surveyor by justices, s. 11
- 6 Application for a district surveyor
- 6A Appointment of district surveyor, s. 16
- 7 Account book to be kept by the clerk to the board for repair of the highways, calf with Russia bands, alphabet, two-joint clasps, lettered
- 8 Minute book to be kept by the clerk to the board for the repair of the highways, calf, lettered
- 9 Appointment of assistant surveyor by the board, s. 18
- 10 Notice of the meetings of the board, printed as notes with fly leaves

Guide Post.

- 11 Order of justices to erect or fix guide posts, s. 24
- 12 Orders of justices to erect water marks

Rates, Distraining for.—12 Vict. c. 14.

- 1 Complaint of the surveyors against one ratepayer
- 2 Complaint of the surveyors against several ratepayers

Highways—continued.**ates, Distraining for—continued.**

- 3 Summons
- 4 Warrant of distress against one ratepayer
- 5 Warrant of distress against several ratepayers
- 6 Warrant of commitment in default of distress
- 23 Summons to surveyor to show cause why a person should not be excused from payment of highway rate on account of poverty, 5 & 6 Will. 4, c. 30
- 24 Justices' order on the above summons
- 81 Notice of collector having called for rate

repair.

- 17 Justices' award for recompense to proprietor and occupier of grounds occupied while adjoining road is under repair, s. 25
- 28 Notice of two ratepayers requiring surveyor to call a meeting to divide among the ratepayers the carrying of the material for repair of highways, s. 35
- 29 Notice of surveyor for that purpose
- 30 Order of justices fixing rate of charges for carrying same
- 31 Notice of surveyor to carry materials
- 37 Consent of justices to sell lands allotted for repair of highways, s. 48, and 8 & 9 Vict. c. 71
- 38* Information against owner of lands refusing his consent to allow stones to be gathered, s. 51
- 39 Summons of owner by justice on refusal
- 40 Licence of justices
- 41 Notice of surveyor to owner and occupier of inclosed ground to appear before two justices, to show cause why materials should not be had therefrom, s. 53
- 42 Justices' authority thereon
- 43 Application from a surveyor to justices for a licence to get materials for the repair of the highways in another parish, s. 54
- 44 Licence from justices thereon
- 77 Notice of holding a vestry for the appointment of a board for the repair of the highways, s. 18
- 83 Information for non-repair, s. 94
- 84 Summons

Highways—continued.**Repair—continued.**

- 85 Appointment of person to view highway out of repair
- 86 Conviction
- 87 First order
- 88 Warrant of distress
- 89 Commitment
- 90 Second order
- 74 Notice of a person's intention to dedicate a highway to the public, s. 23
- 78 Justices' precept to high constable to give notice to the surveyors to make a return of the state of the highways and verify their accounts, s. 45
- 79 High constable's notice to surveyors thereon
- 79a Surveyor's return of the state of the highways
- 79b Annual returns of receipts and expenditure, 12 & 13 Vict. c. 35
- 82 Licence from justices to surveyor to let to hire team, &c. to be used in repairing highways, s. 46

Special Session.

- 25 Justice's precept to the high constable of the special sessions to be held throughout the year, s. 45.
- 26 Precept to the high constable of the special sessions to be held throughout the year
- 32 Appointment of collector by surveyor, s. 36
- 33 Bond of collector

Accounts.

- 18 Highway rate books, strongly half-bound, quarto, 4s.
- 19 Ditto, 6s.
- 20 Ditto, folio, 7s. 6d.
- 21 Ditto, 9s. 6d.
- 22 Highway rate receipt books, 200 in each, 2s.
- 22a Highway rate collecting book, 2s.
- 22b Ditto, 4s.
- 34 Collector's account book, strongly bound, 8s.
- 34a SHAW'S NEW HIGHWAY ACCOUNT BOOK, 6s.
- 34b SURVEYOR'S ACCOUNT BOOK. By TELFORD, 5s. 6d., 9s., and 16s.

Highways—continued.**Accounts—continued.**

- 35 SURVEYOR'S ACCOUNT BOOK, for entering the day labour, team work, total weekly expenditure, and every other item which a surveyor may require to keep an account of, strongly half-bound, 6s. By JOHNSON. 33rd Edition.
- 36 Ditto, larger size, 9s.
- 36a HIGHWAY RATE BOOKS, containing the necessary printed columns for entering the monies levied for the highway rate, when collected, &c., strongly bound and lettered, 4s. By JOHNSON.

Boundaries.

- 45 Information to enable justices to fix boundaries of highways lying in two parishes, with summons annexed, s. 58
- 47 Order.

Quisances.

- 48 Notice from surveyor to an owner of land to cut down, grub up, and carry away trees, &c., growing within 15 feet of the centre of the road, s. 64
- 49 Application of surveyor to justice to summon owner of land to lop trees, &c. s. 65
- 50 Summons of owner
- 51 Order
- 52 Conviction
- 54 Order of a justice on a surveyor to remove rubbish from highway, s. 73
- 55 Notice from surveyor to party to remove the same

Carriages.

- 56 Information against owners and drivers of carriages, s. 78
- 57 Summons
- 58 Warrant
- 59 Conviction
- 61 Commitment

Turning of.

- 62 Notice of surveyor to enlarge gateways, s. 81
- 63 Order of two justices for widening a highway, s. 82

Highways—continued.**Turning of—continued.**

- 64 Consent of the owner of lands through which a new highway is proposed to be made
- 65 Notice to the surveyor from a party desirous of stopping up, diverting, or turning a highway, s. 84
- 66 Notice from surveyor of diverting and turning a highway
- 67 Certificate of justices who have viewed highways to be widened, s. 85

Penalties.

- 68 Information for recovery of penalties and forfeitures imposed, s. 103
- 69 Summons
- 70 Conviction
- 71 Warrant of distress
- 72 Commitment for want of distress
- 73 Commitment where proof is given of the want of distress
- 80 Summons to attend a justice, ss. 101, 118

Highway Rates.**Application of, to Turnpike Roads.—4 & 5 Vict. c. 59.**

- 1 Notice to surveyor of highways, of intended application for a portion of highway rate
- 2 Information by clerk or treasurer for such portion
- 3 Order for the same by justices
- 4 Notice to justices of intention to appeal

Highways, Turnpikes.**Turnpikes.—3 Geo. 4, c. 126.**

- 1 Order of trustees for erecting a weighing engine—
- 2 Table of weights allowed in winter and summer, to carriages directed to be weighed (including the carriage and loading) s. 12.

Highways, Turnpikes—continued.**Turnpikes—continued.**

- 3 Agreement between trustees of different turnpike roads for erecting one weighing engine for the use of such roads, s. 25
- 4 Notice of a meeting of trustees for ordering a side gate to be erected
- 5 Order of the trustees for erecting a side gate—9 Geo. 4, c. 77, s. 5
- 6 Notice for letting tolls—9 Geo. 4, c. 126, s. 55
- 7 Order of trustees for reducing the tolls, s. 43
- 8 Agreement between the trustees of a turnpike road and a person liable by tenure to repair some part of it, s. 106
- 14 Agreement by subscription for advancing money to make and repair a turnpike road or highway—9 Geo. 4, c. 77, s. 7
- 15 Warrant from a justice of the peace to enter the toll-gate house, and remove the persons therein—4 Geo. 4, c. 95, s. 59
- 16 Bond from the surveyor—3 Geo. 4, c. 126
- 17 Summons for any person or persons to attend a justice or justices—s. 47.
- 18 Information for offences against the Turnpike Act, s. 83
- 19 Conviction
- 20 Warrant to distrain for forfeiture, with return of the constable, to be made upon the warrant of distress
- 22 Commitment for want of distress
- 23 Notice of appeal to the quarter sessions—4 Geo. 4, c. 95, s. 87
- 24 General statement of income and expenditure—3 & 4 Will. 4, c. 80, s. 1
- 24* Estimate of the expense of maintaining the turnpike trust, s. 4
- 27 Notice by surveyor, to show cause why materials should not be had—3 Geo. 4, c. 120, s. 98
- 28 Magistrates' authority to get materials out of inclosed lands
- 29 Notice from a surveyor to remove filth, &c., s. 114
- 30 Notice from a surveyor to remove and alter gates, &c., s. 125

Highways, Turnpikes—continued.**Turnpikes—continued.**

- 31 Order to cut down trees, &c., s. 116
- 32 Notice from a surveyor to cleanse ditches, water-courses, &c., s. 114
- 33 Information against a toll collector, for taking more toll than allowed—4 Geo. 4, c. 95, s. 30

Hundred, Remedies against.

- 1 Notice to be given to the high constable, &c., by the party intending to apply for compensation—7 & 8 Geo. 4, c. 31, s. 8
- 2 Notice to be placed on the church doors of such intention by the party intending to apply
- 3 Recognizance to bind the person over to prosecute, where the parties charged with the felony are at large
- 4 Notice to be given to the justices, &c., of a special petty session for determining any claim for compensation for damage done
- 5 The like notice to be given to the claimant

Indictable Offences.

11 & 12 Vict. c. 42.

- A. Information and complaint for an indictable offence
- B. Warrant to apprehend a person charged with an indictable offence
- C. Summons to a person charged with an indictable offence (2 on a sheet and 4 on a sheet)
- D. Warrant where the summons is disobeyed
- E. Warrant to apprehend a person charged with an indictable offence committed on the high seas or abroad
- F. Certificate of indictment being found
- G. Warrant to apprehend a person indicted
- H. Warrant of commitment of a person indicted
- I. Warrant to detain a person indicted who is already in custody for another offence
- L.1. Summons of a witness (2 on a sheet and 4 on a sheet)
- L.2. Warrant where a witness has not obeyed a summons
- L.3. Warrant for a witness in the first instance

Indictable Offences—continued.

- L.4. Warrant of commitment of a witness for refusing to be sworn or to give evidence
- M. Depositions of witnesses (whole sheets and half-sheets)
- M a Ruled foolscap for ditto
- N. Statement of the accused (whole sheets and half-sheets)
- O.1. Recognizance to prosecute, with condition to prosecute
- O.3. Recognizance to prosecute and give evidence, with condition to prosecute and give evidence
- O.4. Recognizance to give evidence, with condition to give evidence
- O.5. Ditto, for several
- O.2. Notice of the said recognizance to be given to the prosecutor and his witnesses (in books of 50 and 100)
- P.1. Commitment for refusing to enter into the recognizance
- P.2. Subsequent order to discharge the witness
- Q.1. Warrant remanding a prisoner
- Q.2. Recognizance of bail, instead of remand, on an adjournment of examination
- Q.3. Notice of such recognizance to be given to the accused and his sureties (in books of 50 and 100)
- Q.4. Notice of such recognizance to be given to the sureties (in books of 50 and 100)
- R.1. Warrant to convey the accused before a justice of the county, &c., in which the offence was committed
- R.2. Order for payment of the constable's expenses
- S.1. Recognizance of bail, with condition in ordinary case
- S.6. Recognizance of bail, with condition, where the defendant is entitled to a traverse
- S.2. Notice of the said recognizance to be given to the accused and his bail in ordinary cases (in books of 50 and 100)
- S.7. Notice of recognizance to be given to the bail of the accused in ordinary cases (in books of 50 and 100)
- S.3. Notice of recognizance to be given to the accused and his bail where the defendant is entitled to a traverse (in books of 50 and 100)
- S.8. Notice of recognizance to be given to the bail of the accused where the defendant is entitled to a traverse (in books of 50 and 100)

Indictable Offences—continued.

- S.4. Certificate of consent of bail by the committing justice
- S.5. Warrant of deliverance, on bail being given for a prisoner already committed
- T.1. Warrant of commitment
- T.1.*a* Ditto Central Criminal Court
- T.2. Gaoler's receipt to the constable for the prisoner, and justice's order thereon for payment of the constable's expenses in executing the commitment
- T.2.*a* Ditto for several Prisoners
- JERVIS'S ACTS, with practical notes and forms, by J. F. ARCHBOLD, Esq. Third edition, 8s. cloth

Summary Convictions and Orders.

11 & 12 Vict. c. 43.

- A.1. Information for an offence punishable on conviction
- A.2. The like; *qui tam*
- A.3. Information on oath for an offence punishable on conviction
 - A. Summons to the defendant, upon an information or complaint (2 on a sheet and 4 on a sheet)
 - B. Warrant where the summons is disobeyed
 - C. Warrant in the first instance
 - D. Warrant of committal for safe custody during an adjournment of the hearing
 - E. Recognizance for the appearance of the defendant, where the case is adjourned, or not at once proceeded with
 - U. Notice of recognizance where the bail is taken upon the hearing being adjourned (in books of 50 and 100)
- U.1. Notice of recognizance to be given to sureties where bail is taken upon the hearing being adjourned (in books of 50 and 100)
- G.1. Summons of a witness (2 on a sheet and 4 on a sheet)
- G.2. Warrant, where a witness has not obeyed a summons
- G.3. Warrant for a witness in the first instance
- G.4. Commitment of a witness for refusing to be sworn or to give evidence
- H. Warrant to remand a defendant, when apprehended
- I.1. Conviction for a penalty, to be levied by distress, and, in default of sufficient distress, imprisonment (on paper and parchment)
- I.2. Conviction for a penalty, and, in default of payment, imprisonment (on paper and parchment)

Summary Convictions and Orders—continued.

- I.3. Conviction when the punishment is by imprisonment, &c.
(on paper and parchment)
- K.1. Order for payment of money, to be levied by distress, and,
in default of distress, imprisonment
- K.2. Order for payment of money, and, in default of payment,
imprisonment
- K.3. Order for any other matter, where the disobeying of it is
punishable with imprisonment
- L. Order of dismissal of an information or complaint
- M. Certificate of dismissal
- N. Warrant of distress upon a conviction for a penalty
- N.2. Warrant of distress upon an order for the payment of
money
- N.5. Warrant of commitment for want of distress upon a
conviction
- N.5*b*. Warrant of commitment upon a conviction, where the
issuing of a distress warrant would be ruinous, or where
the party acknowledges want of distress, s. 19
- N.6. Warrant of commitment for want of distress upon an order
- O.1. Warrant of commitment upon a conviction for a penalty in
the first instance
- O.2. Warrant of commitment on an order in the first instance
- P.1. Warrant of commitment on a conviction, where the punish-
ment is by imprisonment
- P.2. Warrant of commitment on an order, where the disobeying
of it is punishable by imprisonment
- P.3. Warrant of distress for costs, upon a conviction, where the
offence is punishable by imprisonment
- P.4. Warrant of distress for costs upon an order, where the
disobeying of the order is punishable with imprisonment
- P.5. Warrant of commitment for want of distress for costs upon
an order
- P.6. Warrant of commitment for want of distress for costs upon
a conviction
- Q.1. Warrant of distress for costs upon an order of dismissal
of an information or complaint
- Q.2. Warrant of commitment for want of distress upon an order
of dismissal
- Q.2*a*. Warrant of commitment of complainant for costs, where
the issuing of a distress warrant would be ruinous, or
where the complainant acknowledges want of distress,
s. 19

Summary Convictions and Orders—continued.

- R. Certificate of Clerk of the Peace that the costs of an appeal are not paid
- S.1. Warrant of distress for costs of an appeal against a conviction
- S.3. Warrant of distress for costs of an appeal against an order
- S.2. Warrant of commitment for want of distress for costs of appeal against an order
- S.4. Warrant of commitment for want of distress for costs of an appeal against a conviction
- T. Account of Clerk of the Justices at petty sessions, and the Keeper of the Gaol or House of Correction
- T*a.* Ditto, in books of 1, 2, and 3 quires, indexed
- V. ARCHBOLD'S MINUTE BOOK OF CONVICTIONS. 100, 6*s.*; 200, 10*s.* 6*d.*; 300, 14*s.* 6*d.*
- W. ARCHBOLD'S MINUTE BOOK OF ORDERS. 100, 6*s.*; 200, 10*s.* 6*d.*; 300, 14*s.* 6*d.*
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Informations and Examinations.

- 1 Information and complaint to ground warrant
- 3 Deposition to ground warrant
- 4 Information of prosecutor and witnesses to be returned to the court where the prisoner is to be tried, *whole and half-sheets*
- 5 Examination of a prisoner when he denies the commission of the offence
- 6 Examination and confession of a prisoner
- 7 Information for an offence against a penal statute

Jurors.

6 Geo. 4, c. 50

- 1 Precept from justices' clerks to the high constables, for appointing the days for receiving jury lists
- 1*Precept from justices' clerks to the churchwardens and overseers of poor, appointing the day for receiving jury lists
- 2 Returns of persons liable to serve on juries, *whole sheet with title*

Jurors—continued.

- 2a Ditto, inner sheets to fold in the titles
- 2b Ditto, on half-sheets with title at top
- 3 Notice for church doors

Juvenile Offenders Act.

13 & 14 Vict. c. 37.

- 1 Information
- 2 Summons
- 3 Warrant
- 4 Recognizance
- 5 Order for payment of expenses of prosecution
- 6 Warrant of distress
- 7 Certificate of dismissal
- 8 Conviction (paper and parchment)
- 9 Commitment for non-payment of penalty
- 10 Ditto to imprisonment, with or without hard labour
- 11 Summons to witness
- 12 Recognizance of sureties for appearance of defendant
- 13 Warrant to apprehend a witness neglecting to appear pursuant to summons or recognizance
- 14 Appointment of constable to whip a juvenile offender
- 15 Order for restitution of property

Killing Hares, 11 & 12 Vict. c. 29.

Authority to kill hares
Register book of ditto

Landlord and Tenant, see title Distress, and also Tenements Act.**Larceny.**

- 1 Information for larceny
- 2 Warrant for larceny
- 2* Information to ground search warrant
- 3 Search warrant for stolen goods
- 4 Ditto for contraband goods

Indictments for Larceny, see title "Clerks of the Peace, Indictments."

Lease, Form of.

8 & 9 Vict. c. 124, "An Act to facilitate the granting of certain Leases."

Lettings, or Agreements for Leases.

- 1 Agreement for letting furnished lodgings
- 2 Agreement for yearly letting of a house
- 3 Agreement for letting a house, &c. for years
certain
- 4 Agreement by freeholder for letting, and (on request) to grant
a lease of, a house, &c.
- 5 Agreement by leaseholder
- 6 Agreement by freeholder for letting, and (on request) grant
a lease of, a farm

Local Government Act, 1858.

- A. Requisition for a meeting to consider adoption of Act
- B. Notice of meeting
- C. Notice of poll
- D. Petition to Secretary of State for settlement of boundaries
- E. Notice of adoption of Act
 1. Notice of election, for affixing on church and chapel
doors. 4s. per quire of 48 forms. 150 filled up, 16s.
 2. Notice of qualification of owner of property entitled to vote.
3s. per quire of 48 forms
 - 2a. Notice of qualification of joint stock company entitled to
vote. 4s. per quire of 48 forms
 - 2b. Notice of qualification of corporation entitled to vote.
4s. per quire of 48 forms
 3. Appointment of proxy by corporation. 4s. per quire of
48 forms
 - 3a. Appointment of proxy by joint stock company, &c. 4s. per
quire of 48 forms
 4. Form of nomination of candidates. 3s. per 100. 250, 7s.;
500, 10s. filled up
 5. Voting papers. 4s. per 100. 250, 7s. 6d.; 500, 10s. 6d.
filled up
 6. Collectors' books for entering particulars of having called
for voting papers and the qualification of voters. 2s. each
 8. Books to facilitate the calculation of the number of votes
given to each candidate. 2s. and 3s. each
 - 9 Certificate and list of candidates and persons elected. 3s. per
quire of 48 forms
 - 10 Notice to party of being duly elected member of local board,
1s. 6d. per quire. 6 quires, 8s. 6d. filled up

Local Government Act, 1858—continued.

- 11 Declaration to be made by elected or selected member of local board before acting. 4s. per quire of 48 forms
- 12 Common lodging-house register. Super-royal, bound in half-vellum, 2 quires, 16s.
- 25 Notice to be sent to the keepers of common lodging houses, 3s. per 100
- 30 Tickets of number of lodgers in each room in common lodging house. 3s. per 100
- 31 Daily register of lodgers for 1 year, in books, strongly half-bound, 5s.
- 32 Weekly return of lodgers, 3s. per quire
- 14 Register of mortgages. Super-royal, bound in half-vellum, 2 quires, 16s.
- 15 Register of transfers of mortgages. Super-royal, bound in half-vellum, 2 quires, 16s.
- 16 Register of nuisances. Medium, bound in half-vellum, 20s.
- 16a Ditto. *Another sort, ditto*, 20s.
- 17 Minute book of board. Bound in calf, 5 quires, 23s.; 6 quires, 24s. 6d.; 7 quires, 27s.; 8 quires, 29s. 6d.
- 22 Board ledger. Sup. laid demy folio, bound in calf, 5 quires, 1l. 3s.; 6 quires, 1l. 6s.; 7 quires, 1l. 9s.; 8 quires, 1l. 12s.
- 23 Treasurers' account book. Sup. laid demy folio, bound in calf, 5 quires, 1l. 3s.; 6 quires, 1l. 6s.; 7 quires, 1l. 9s.; 8 quires, 1l. 12s.
- 18a General district rate book. Imperial, half-bound cloth, 3 quires, 650 names, 4s. 6d.; 2 quires, 1330 names, 6s.; 1 quire, 2000 names, 8s.
- 18f Ditto. 10½ by 13 inches, half-bound cloth, 1 quire, 1575 names, 6s. 6d.; 2 quires, 3350 names, 10s.; 3 quires, 5000 names, 14s.
- 24 Ditto. *Another sort*,—Drawn by JAMES DEATH, Esq. Clerk to the Local Board of Cheshunt. In books of 1 quire, 12s.; 2 quires, 16s.; and 3 quires, 20s.; strongly half-bound
- 18b Private improvement rate book. Imperial, half-bound cloth, 1 quire, 650 names, 4s. 6d.; 2 quires, 1330 names, 6s.; 3 quires, 2000 names, 8s.
- 18g Ditto. 10½ by 13 inches, half-bound cloth, 1 quire, 1575 names, 6s. 6d.; 2 quires, 3350 names, 10s.; 3 quires, 5000 names, 14s.

Local Government Act—continued.

- 26 Private improvement rate collection book. 1 quire, 650 names, 4s. 6d.; 2 quires, 1330 names, 6s.; 3 quires, 2000 names, 8s.
- 18c Water rate book. Imperial, half-bound cloth, 1 quire, 650 names, 4s. 6d.; 2 quires, 1330 names, 6s.; 3 quires, 2000 names, 8s.
- 18h Ditto. $10\frac{1}{2}$ by 13 inches, half-bound cloth, 1 quire, 1575 names, 6s. 6d.; 2 quires, 3350 names, 10s.; 3 quires, 5000 names, 14s.
- 18d Receipt check books for ditto of 200, 1s. 4d.
- 27 Collector's notice of having called for rates, in books of 200, 1s. 4d.
- 28 Notice of rate
- 29 Collector's account book
- 19 List of rate defaulters. 3s. per quire of 24 forms
- 20 Seal of local board
- 21 Maps of city, town, &c.
- 33 Notice of highway rate

Local Government Act, 1858.

- 1 Application to local board to cause surveyor to enter premises to examine drains, &c.
- 2 Order of local board to surveyor to enter premises, to examine drains, &c.
- 3 Notice of surveyor to occupier to enter premises to examine drains, &c. to execute work, &c.
- 4 Order of local board upon owner or occupier

Local Government Act, 1858.

- 1 Complaint of non-payment of local board rate
- 2 Summons
- 3 Warrant of distress
- 4 Order for payment, and in default, distress and sale of goods, or imprisonment
- 5 Warrant of commitment in default of distress

Lodging House Acts, Common, 1851 and 1853.

- 106 Information for an offence against the Lodging House Acts, 14 & 15 Vict. c. 28; 16 & 17 Vict. c. 41
- 107 Summons
- 108 Conviction

Lodging House Acts, &c.—continued.

109 Warrant of Distress

110 Commitment

Lord's Day.

1 Warrant for levying 20s. on a carrier for travelling on the Lord's day—3 Car. 1, c. 1

2 Warrant against persons exercising trades, &c., on the Lord's day—29 Car. 2, c. 7

3 Information

4 Summons

Lunatics.*Settled by J. F. Archbold, Esq., Barrister-at-Law.*

13 & 14 Vict. c. 101, s. 5.

A. Complaint against the husband of a lunatic

B. Summons to the husband

C. Order on the husband to contribute to her maintenance

F. Information on disobedience of the order

G. Summons to the husband on disobedience of the order

D. Warrant of Distress

E. Commitment

16 & 17 Vict. c. 97.

2 Justice's order to bring up chargeable lunatic, s. 67

3 Order of justice, or of clergyman and relieving officer or overseer, with certificate of medical practitioner, for reception into asylum, &c.

5 Justice's order to bring up lunatic wandering at large, s. 68

6 Information by relieving officer, &c. relative to lunatic not under proper care or control, or cruelly treated, &c. s. 68

7 Justice's order to physician, &c. to examine the lunatic, s. 68.

8 Justice's order to bring up lunatic, s. 68

9 Justice's order for the payment of the expenses of the medical examination, &c. s. 69

10 Justice's order upon the guardians, &c., to pay the charges of maintenance, &c.

11 Order of removal by two visitors, being justices, of pauper lunatic to some other asylum

12 Order of justice, adjudicating the settlement, and for repayment of expenses, &c., s. 97

13 Statement of the grounds of adjudication, s. 107

14 Notice and grounds of appeal, s. 108

15 Notice of abandonment of order, s. 117

Lunatics—continued.

- 16 Notice to the clerk of the peace of intended application to adjudge lunatic to county, s. 98
- 17 Order of justice, adjudging lunatic to be chargeable to the county, and for the expenses
- 18 Order of justice, adjudicating the settlement where afterwards ascertained by the county, and for reimbursing the expenses paid by the county
- 19 Justice's order for payment of the expenses out of the union fund, where the pauper has been sent to the asylum since 29th September, 1853, and is exempt from removal by 9 & 10 Vict. c. 66, s. 102
- 20 Application to nearest relative or friend of lunatic for the payment of the charges of examination, removal, lodging, &c. out of lunatic's estate, s. 94
- 21 Justice's order to seize money and goods, or receive rents of lunatic, s. 94
- 23 Order upon relative to relieve and maintain lunatic
- 24 Conviction of relative in default of payment

8 & 9 Vict. c. 100, and 16 & 17 Vict. c. 96.

Forms given in the Schedules of the Acts.

- 1 Notice of admission, with statement and order for the reception of a private patient
- 2 Ditto of a pauper patient
- 3 Ditto of discharge of patient
- 4 Ditto of death and cause of death of patient
- 5 Registry of admissions
- 6 Registry of discharges and deaths
- 7 Medical visitation book
- 8 The visitors' book, with the act
- 9 The patients' book
- 24 The case book

16 & 17 Vict. c. 97.

Forms given in the Schedule of the Act.

- 10 Notice of admission, with statement and order for the reception of a pauper patient
- 11 Ditto of a private patient
- 12 Ditto of discharge
- 13 Ditto of death and cause of death

Lunatics—continued.

- 23 Ditto of removal
- 14 List of all pauper lunatics in the asylum
- 15 Registry of admissions
- 16 Registry of discharges and deaths
- 17 Medical journal
- 18 Case book
- 19 Quarterly list of lunatic paupers within the union, &c.
- 20 The visitors' book, with the act
- 21 The patients' book
- 22 Names of all private lunatics in the asylum
- 24 Annual return of pauper lunatics

Malicious Injuries, see also title Gardens and Trees.

- A. Information for wilfully or maliciously committing any damage, injury, or spoil, to any real or personal property, *not specially provided for in the statute*, and not exceeding 5*l.*—7 & 8 Geo. 4, c. 30, s. 24
- B. Summons
- C. Warrant
- D. Conviction
- E. Commitment
- 20 Discharge from custody, under a commitment of a justice for non-payment of a penalty, &c., the same having been subsequently paid, pursuant to statute 7 & 8 G. 4, c. 29, s. 68, and c. 30, s. 34

Merchant Seamen, see title Seamen, Merchant.**Measures, see title Weights and Measures.****Metropolitan Police Act.**

- 1 General information—3 & 4 Vict. c. 84
- 2 „ summons
- 3 „ warrant
- 4 „ conviction
- 5 „ warrant of distress
- 6 „ commitment thereon
- 7 „ commitment without distress

Metropolitan Police Courts Act.

- 1 Information that stolen goods are suspected to be concealed in any certain place—2 & 3 Vict. c. 71, s. 25
- 2 Special warrant to search
- 3 Conviction
- 4 Warrant of distress
- 5 Commitment
- 6 Information on complaints by bargemen and others for wages, s. 37
- 7 Summons
- 8 Order
- 9 Warrant of distress
- 10 Commitment
- 11 Information against a tenant for wilful damage under s. 38
- 12 Summons
- 13 Conviction
- 14 Warrant of distress
- 15 Commitment
- 16 Information for unlawfully detaining goods under s. 40
- 17 Summons
- 18 Order
- 19 Warrant of distress
- 20 Commitment

Obtaining Possession of Deserted Premises.

- 11 Geo. 2, c. 19; 57 Geo. 3, c. 52; 3 & 4 Vict. c. 84, s. 13.
 - 1 Complaint or request of landlord or agent
 - 2 Warrant to constable to view
 - 3 Notice of view by constable
 - 4 Return to warrant by constable
 - 5 Warrant to constable to give possession
 - 6 Record of giving possession
- The whole of the Forms required for the recovery of Parochial Rates, Removal of Paupers, and Apprenticing Poor Children, may be had adapted for the Metropolitan Police Courts.

Metropolitan Police Courts.

Tenements Act.

1 & 2 Vict. c. 74.

- 1 Notice for the recovery of possession of tenements after due determination of the tenancy
- 2 Complaint to be made before a police magistrate
- 3 Warrant to peace officers to take and give possession

Metropolitan Police District.

3 & 4 Vict. c. 84, 11 & 12 Vict. c. 43.

- A. Information for an offence punishable on conviction
- B. Summons
- C. Warrant when the summons is disobeyed
- D. Warrant in the first instance
- E. Conviction for a penalty to be levied by distress, and in default, imprisonment
- F. Conviction for a penalty, and in default of payment, imprisonment
- G. Conviction when the punishment is by imprisonment
- H. Warrant of Commitment upon a conviction for a penalty in the first instance
- I. Warrant of Commitment upon a conviction, where the punishment is by imprisonment
- J. Warrant of Commitment upon an order, where the disobeying of it is punishable by imprisonment
- K. Warrant of Commitment on a conviction for a penalty to be levied by distress, and in default, imprisonment
- L. Warrant of Distress for a penalty to be levied by distress

Hight Poaching, see title Game.

Nuisances Removal Acts for England, 1855, 1860.

- A. Order of justices for admission of officer of local authority to inspect private premises
- A. 2. Order of justices where no one in custody of premises
- A. 3. Notice of nuisance to owner or occupier by inspector of nuisances
- A. 4. Notice of nuisance to owner or occupier by sanitary inspector
- A. 5. Ditto in book with counterpart.
- B. Notice of nuisance
- B. 1. Ditto in book with counterpart
- C. Notice to owner or occupier of entry for examination of premises
- Q. Complaint. Existing Nuisance
- D. Summons. Existing nuisance
- R. Complaint. Recurring nuisance
- D. 2. Summons. Recurring nuisance
- S. Complaint for preventing execution of works
- D. 3. Summons for preventing execution of works
- E. Order of justices for removal of nuisances by owner, &c.
- E. 2. Ditto with prohibition, when the same is likely to recur on the premises

Nuisances Removal Acts—continued.

- E. 3. Ditto prohibiting renewal of nuisance removed before the complaint
- F. Order of justices for removal of nuisances by local authority
- F. 2. Ditto with prohibition, when the same is likely to recur on the premises
- F. 3. Ditto prohibiting renewal of nuisance removed before the complaint
- G. Order to permit execution of works by owners
- H. Summons for non-payment of costs, expenses, or penalties, s. 20
- I. Order for payment of costs, expenses, and penalties
- K. Warrant of distress
- K. 2. Warrant of commitment
- L. Return of proceedings under Nuisances Removal Acts
- M. Ditto in sheets
- N. Rate-book, 1 qr., 2 qrs., 3 qrs., 4 qrs., 5 qrs.
- O. Recognizance in reference to appeal to quarter sessions
- P. Certificate of over-crowding house
- V. Register of nuisances
- T. Presentment book of complaints
- U. Inspector of nuisances report book

KEANE'S NUISANCES REMOVAL ACT for England, 1855, and the Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases, 1860, with Analysis, Cases, Index, and Forms. By D. KEANE, Esq., Barrister-at-Law. 3s. 6d. Fourth Edition.

Oaths, Abolition of.

- 1 Declaration to be made before a justice of peace in lieu of oath—5 & 6 Will. 4, c. 62

Orchards, *see title* Gardens.

Parish Constable, *see title* Constables, Parish.

Parish Notice Books.

	Books containing 100 each.		Books containing 50 each.	
	s.	d.	s.	d.
1 Notice for calling a meeting of inhabitants to make a rate for the <i>necessary relief of the poor</i> - - - - -	4	0	2	3
2 Notices of magistrates' allowance of a poor-rate at - - - in the pound - - -	4	0	2	3
3 Notice for calling a meeting of inhabitants for making a church-rate - - -	4	0	2	3
4 Notice for calling a meeting of inhabitants to make a rate for the repair of the highways	4	0	2	3
5 Notice of magistrates' allowance of such rate	4	0	2	3
6 Notice of vestry meeting - - - - -	4	6	2	6

Parish Register Books.

BAPTISMS, BURIALS, AND BANNS OF MARRIAGES.

Number.	Number of Entries.	PRINTED ON PAPER.						Printed on Writing Vellum, bound Rough Calf, lettered, with Spring Backs & Clasps.		
		FORRIL.			CALF.					
		£	s.	d.	£	s.	d.	£	s.	d.
1	800	0	13	0	1	1	0	2	0	0
2	1600	0	19	0	1	7	0	3	0	0
3	2400	1	5	0	1	13	0	3	15	0
4	3200	1	12	0	2	0	0	4	10	0
5	4000	1	19	0	2	6	0			

. The folios and numbers printed throughout.

Parochial Assessments, *see title Poor.*

Pawning and Pawnbrokers.

1. Information against a pawnbroker for taking in goods to pawn from one under twelve years of age, or from an intoxicated person, or at unlawful hours—39 & 40 G. 3, c. 99, s. 21
3. Summons
2. Conviction
3. Warrant of distress
2. Commitment
1. Information for refusing to redeliver pawned goods, s. 14
2. Summons

9 & 10 Vict. c. 98.

1. Order
2. Commitment
2. Information for taking more than legal interest, s. 2
2. Summons
1. Warrant
2. Conviction
2. Commitment
1. Information for unlawfully pawning, &c., the goods of another, s. 8
2. Warrant
2. Conviction
2. Commitment

Pawning, &c.—continued.

- T. Order for whipping
- V. Information for search warrant for goods, &c., intrusted to wash, work up, &c., and pawned, s. 12
 - 1 Information for receiving, &c., pawns, &c., out of the prescribed hours
 - 2 Summons
 - 3 Conviction
 - 4 Warrant of distress

Perjury.

14 & 15 Vict. c. 100, s. 19.

- 1 Commitment for Perjury
- 2 Order to prosecute
- 3 Certificate to entitle prosecutor to costs
- 4 Recognizance to prosecute and give evidence
- 5 Ditto, to give evidence
- 6 Ditto, of prisoner with sureties to appear and answer indictment
- 7 Notice of recognizance to be given to the prosecutor and his witnesses. In books of 100
- 8 Notice of recognizance to be given to the accused and his sureties. In books of 100

Poor.

Assessment, Parochial.—6 & 7 Will. 4, c. 96, s. 6.

- 1 Notice of special sessions for hearing appeals against poor-rates
- 1* Ditto with blank days, hours, and places for hearing appeals
- 2 Notice to collector, overseer, or other person, of objection to rate
- 3 Decision of the justices at special sessions
- 4 Notice of intention to appeal against the decision of the justices in special sessions, to be given to the party in whose favour it is made
- 5 Recognizance, condition to try appeal against justices' decision in special sessions, and abide judgment and pay costs

Poor—continued.**Contribution, Order of Guardians, Enforcement of.**

- 1 Application of chairman against overseers—2 & 3 Vict. c. 84, s. 1; 12 & 13 Vict. c. 103, s. 7; 14 & 15 Vict. c. 105, s. 9
- 2 Summons
- 3 Order upon Overseers for Payment
- 4 Conviction
- 5 Warrant of distress
- 6 Warrant of commitment

N.B. These forms may be had adapted to the case when the proceedings are to be against *one* overseer only. See 12 & 13 Vict. c. 103, s. 7.

Proceedings against Overseers for neglecting to provide Funds for the Relief of the Poor.

- 1 Information—7 & 8 Vict. c. 101, s. 63
- 2 Summons
- 3 Conviction
- 4 Warrant of distress
- 5 Warrant of commitment

Overseers.

- 1 Precept from justices to high constables to return the names of persons to be overseers—43 Eliz. c. 2, s. 1
- 2 High constable's warrant to the petty constable
- 2 A—List of persons to be returned to the justices, nominated to serve the office of overseer of the poor
- 2 B—Constable's notice to persons contained in the list
- 3 APPOINTMENT OF OVERSEER, with the duties of his office, by W. G. LUMLEY, Esq., Secretary to the Poor Law Board. Corrected to the present time by Mr. GLEN.
- 4 APPOINTMENT OF ASSISTANT OVERSEER, with the duties of his office and bond, together with the other necessary papers of appointment, by W. G. LUMLEY, Esq.
- 29 Information against an overseer for refusing to account, &c.
- 29 A—Summons
- 30 Commitment
- 31 Warrant of distress for balance found due from late overseers

Poor—continued.**Maintenance, Neglect of.**—5 Geo. 4, c. 83, s. 3.

- A. Information against a person for allowing his wife and family to become chargeable to a parish
- B. Warrant
- C. Conviction
- D. Commitment
- E. Information against a person for returning from a parish to which he has been removed
- F. Warrant
- G. Conviction
- H. Commitment

Deserting Families.

- I. Information against a person running away and leaving his wife or family chargeable—5 Geo. 4, c. 83, s. 4
- K. Warrant
- L. Conviction
- M. Commitment
- N. Order to seize the goods and receive the rents of the lands of parents running away and leaving their families—5 Geo. 1, c. 8, s. 1

Maintenance of Paupers by Relations.

- 22* Notice to the party of the intended application—43 Eliz. c. 2, s. 7; 59 Geo. 3, c. 12, s. 26
- 23 Complaint
- 23* Summons
- 24 Order
- 25 Information of the disobedience of the order
- 25* Summons
- 26 Warrant of distress
- 27 Commitment

Irremovable Poor.

- 1 Complaint against a relation to found an order of maintenance under s. 8, 11 & 12 Vict. c. 110
- 2 Summons
- 3 Order

Poor—*continued.**Loan.*

- 82 Information to attach wages—4 & 5 Will. 4, c. 76, ss. 59, 99
- 83 Summons
- 84 Order
- 85 Warrant of distress
- 86 Commitment

Parish Houses, Recovery of.

- 53 Notice to quit—59 Geo. 3, c. 12, s. 24
- 54 Information
- 55 Summons
- 56 Warrant to give possession

Penalties.

- 99a Information for the recovery of penalties general—4 & 5 Will. 4, c. 76, s. 99
- 100 Summons
- 101 Conviction
- 102 Warrant of distress
- 103 Commitment

Penalties against Officers.

- 104 Information against overseers for penalty for disobedience of guardians' order to pay contribution—4 & 5 Will. 4, c. 76, ss. 95, 99
- 105 Summons
- 107 Conviction
- 108 Warrant of distress
- 110 Information against overseers for not supplying funds to the guardians—7 & 8 Vict. c. 101, s. 63
- 114 Summons
- 115 Conviction
- 116 Warrant of distress
- A. Information laid by a district auditor against overseer or other officer for not paying certified balance to treasurer, 7 & 8 Vict. c. 101, s. 63; 11 & 12 Vict. c. 91, s. 9
- B. Summons
- C. Order for payment

Poor—continued.

- 117 Information against overseers for neglecting to make or collect sufficient rates under 7 & 8 Vict. c. 101, s. 63
- 118 Summons
- 119 Conviction
- 120 Warrant of distress
- 121 Commitment

Poor-rates, Distraint for—12 Vict. c. 14.

- A.1. Complaint of the overseers against one rate-payer
- A.2. Complaint against several rate-payers
- B. Summons
- C.1. Warrant of distress against one rate-payer
- C.2. Warrant of distress against several rate-payers
- D. Warrant of commitment in default of distress
- E. Inventory of goods distrained
- 99 Justices' order excusing poor persons from payment of poor-rate, with consent of the churchwardens and overseers, each order for one person
- 99*The like for several persons, in one order

Relief.

- 8 Information to recover wages of seaman towards the support of a wife and family—59 Geo. 3, c. 12, s. 32
- 9 Order
- 10 Warrant of distress
- 11 Commitment
- 73 Order of two justices that relief shall be given to an adult person of old age or infirmity, without requiring such person to reside in a workhouse, when chargeable to a union formed under the new act—4 & 5 Will. 4, c. 76, s. 27
- 74 Information of a poor person against an overseer for refusing him relief, or for refusing him medical aid, s. 54
- 75 Summons
- 76 Order for relief
- 77 Information for disobeying such order
- 78 Summons
- 79 Conviction
- 80 Warrant of distress
- 81 Commitment

Post—continued.**Removal.**

- 34 Warrant to apprehend
- 35 Summons of witness
- 88 Notice of a suspended order, with copy of order and examination—35 Geo. 3, c. 101, s. 2
- 89 Notice, form of the intention to submit to the order of removal
- 90 Information for the recovery of costs and expenses of the relief and maintenance of a pauper, under an order of removal against the parish to which the pauper belongs—4 & 5 Will. 4, c. 76, s. 84
- 91 Summons
- 92 Order
- 93 Warrant of distress
- 94 Commitment
- 95 Information for the like upon suspended order—35 Geo. 3, c. 101, s. 2; 4 & 5 Will. 4, c. 76, s. 84
- 96 Summons
- 97 Warrant of distress
- 98 Commitment
- 48 Notice of appeal against an order of removal
- 49 Petition to appeal against an order of removal (Middlesex)

Workhouses, Misbehaviour in.

- A. Information for deserting or running away from a workhouse with clothes—55 Geo. 3, c. 137, s. 2; 7 & 8 Vict. c. 101, s. 58
- B. Summons
- C. Warrant
- D. Conviction for deserting, (*or*) running away from a workhouse with clothes, (*or*) refusing to work, (*or*) for drunkenness or other misbehaviour
- E. Commitment
- F. Conviction of an occasional poor person, relieved in a workhouse, for refusing to work, (*or*) destroying, (*or*) damaging clothes or other property—5 Geo. 4, c. 83, s. 3; 5 & 6 Vict. c. 47, s. 3
- G. Commitment

MR. ARCHBOLD'S REMOVAL PRECEDENTS,

Corrected agreeably to the Act 11 & 12 Vict. c. 31.

CLASS.	Letter.	Removal of Paupers (not Suspended).	
1.	A.	Complaint of Chargeability -	Printed on separate Sheets, 12 Sets for 6s.
	B.	Notice of Chargeability and Grounds of Removal -	
	C.	Examination - - -	
	D.	Order of Removal - - -	
2.	B.	Notice of Chargeability and Grounds of Removal -	Printed on separate Sheets, 12 Sets for 6s.
	C.	Examination - - -	
	D.	Order of Removal - - -	
3.	E.	Containing all the Forms in Class 1, printed on one <i>Sheet large thick Post</i> <i>Paper</i> - - -	At 4s. per Quire.
4.	F.	Containing all the Forms in Class 2, printed on one <i>Sheet large thick Post</i> <i>Paper</i> - - -	At 4s. per Quire.
Suspended Order of Removal.			
5.	A.	Complaint of Chargeability -	Printed on separate Sheets, 12 Sets for 6s.
	G.	Notice of Chargeability and Grounds of Removal -	
	C.	Examination - - -	
	H.	Order of Removal, with Sus- pension and subsequent Or- der to execute the same and for Costs - - -	
6.	G.	Notice of Chargeability and Grounds of Removal -	Printed on separate Sheets, 12 Sets for 6s.
	C.	Examination - - -	
	H.	Order of Removal, with Sus- pension, &c. - - -	
7.	K.	Containing all the Forms in Class 5, printed on one <i>Sheet large thick Post</i> <i>Paper</i> - - -	At 4s. per Quire.
8.	L.	Containing all the Forms in Class 6, printed on one <i>Sheet large thick Post</i> <i>Paper</i> - - -	At 4s. per Quire.
Any one of the Forms A., B., C., D., G. and H., may be purchased separately at 3s. 6d. per Quire.			

- No. 111. Extract from the Minutes of the Board of Guardians *s. d.*
 —5 & 6 Vict. c. 57, sec. 18 - - - - *per quire* 3 0
 112. Certificate of Chargeability - - - - " 3 0
 113. Special Authority to make Application to Justices " 3 0
 76. Order of Removal Book containing Columns for entering
 full particulars of Paupers removed - - - 8 0

Pound Breach.

- 1 Information—6 & 7 Vict. c. 30
- 2 Summons
- 3 Warrant
- 4 Conviction
- 5 Commitment

Precept.

General precept from justices to chief constables

Precept from the high to the petty constable to give in lists of assessors of the land, and other taxes

Precept from chief to petty constable to summon assessors of the several taxes to attend and receive their charge

Prosecutors and Witnesses.

The rates and scales of payment of costs, expenses, and compensations to prosecutors and witnesses; for hanging up in the Court. Dated 9th February, 1858.

Certificate of expenses to be used by all justices' clerks.

Quarter Sessions.

Return of persons committed or bailed

Recognizance.

adapted for binding over one Person only in each instrument.

- A. For prosecutor to prosecute and give evidence at assizes or sessions, on an indictment for any offence
- B. For one person to give evidence thereon
- C. For prosecutor to prosecute and give evidence at assizes or sessions, on an indictment for larceny
- D. For one person to give evidence thereon

adapted for binding several Persons in each instrument.

- E. For prosecutor to prosecute and give evidence as well as for several witnesses, for any offence
- F. For several witnesses to give evidence thereon
- G. For prosecutor to prosecute and give evidence as well as for several witnesses, for larceny
- H. For several witnesses to give evidence thereon
- I. Of prisoner with sureties to appear and answer to an indictment for any offence at assizes or sessions
- K. Of prisoner with sureties to appear and answer to an indictment for larceny, at assizes or sessions

Recognizance—continued.

- L. Of defendant with sureties to appear at sessions, and in the meantime keep the peace, &c., which may be adapted for a defendant without sureties
- M. Of defendant with sureties to be of good behaviour and keep the peace for a time, which may be adapted for a defendant without sureties
- 17 Recognizance to bind over to prosecute, where the persons charged are at large
- 18 General recognizance to try an appeal against a conviction

11 & 12 Vict. c. 42.

- O. 1 Recognizance to prosecute, with condition to prosecute
- O. 3 Recognizance to prosecute and give evidence, with condition to prosecute and give evidence
- O. 4 Recognizance to give evidence, with condition to give evidence
- O. 5 Ditto for several witnesses
- Q. 2 Recognizance of bail, instead of remand, on an adjournment of examination
- S. 1 Recognizance of bail, with condition in ordinary case
- S. 6 Recognizance of bail, with condition where the defendant is entitled to a traverse

11 & 12 Vict. c. 43.

- E. Recognizance for the appearance of the defendant, where the case is adjourned, or not at once proceeded with

Recognizance, Notice of.

11 & 12 Vict. c. 42.

In books of 50 & 100, with counterpart.

- O. 2 Notice of recognizance to prosecute, to be given to the prosecutor and his witnesses
- Q. 3 Notice of recognizance of bail, to be given to the accused and his sureties
- Q. 4 Notice of recognizance of bail, to be given to the sureties under s. 21
- S. 2 Notice of recognizance to be given to the accused and his bail in ordinary cases
- S. 7 Notice of recognizance to be given to the bail of the accused in ordinary cases, under s. 23

Recognizance, Notice of—continued.

11 & 12 Vict. c. 43.

S. 8 Notice of recognizance to be given to the accused and his bail where the defendant is entitled to a traverse
 Notice of recognizance to be given to the bail of the accused where the defendant is entitled to a traverse, under s. 23

U. Notice of recognizance where the bail is taken upon the hearing being adjourned

U. 1 Notice of recognizance to be given to sureties where bail is taken upon the hearing being adjourned, under s. 3

o Appear.

1 Notice required to be given to the principal entering into recognizance to *appear* at the *sessions* to answer—
 3 Geo. 4, c. 46, s. 4

2 Ditto for surety

3 Ditto for the principal to appear at the assizes to answer

4 Ditto for surety

o Prosecute.

5 Ditto for prosecutor to prosecute at the sessions

6 Ditto witnesses to give evidence

7 Ditto of prosecutor to prosecute at the assizes

8 Ditto witnesses to give evidence

ood Behaviour.

13 Ditto for the principal for the peace and good behaviour to appear at the sessions

14 Ditto for sureties

15 Ditto for the principal for the peace and good behaviour when bound for a limited time

16 Ditto for sureties

ppeal.

17 Ditto for the principal in cases of appeal against a conviction

18 Ditto for sureties

Registration Act.

6 Vict. c. 18.

Counties.

SCHEDULE A.

	Price per 250 Copies.	Price per 500 Copies.
	<i>s. d.</i>	<i>s. d.</i>
1 Precept to Overseers, printed on good writing paper, foolscap, 13 by 8½ in. }	8 6	13 6
2 Notice to be given by do. - - }	6 0	10 0
3 Lists for entering the names of persons claiming to be entitled to vote, printed on <i>half-sheets</i> of fine paper, ruled with blue cross lines, sufficient to contain 50 claimants on each <i>half-sheet</i> - - - }	12 0	16 0
Do. do. <i>whole sheets</i> , fine paper, printed on both sides of the sheet, and ruled with blue cross lines, sufficient to contain 220 claimants on <i>each sheet</i> }	20 0	30 0
4 Notice of objection to be given to the overseers - - - }		
5 Notice of objection to be given to parties objected to by any person other than overseers, and to the occupying tenant of the qualifying property }		
6 Lists of persons objected, printed on <i>half-sheets</i> of fine paper, ruled with blue cross lines, sufficient to contain the names of 50 persons objected to on each <i>half-sheet</i> - - - }	12 0	16 0
Do. do. <i>whole sheets</i> , fine paper, printed on both sides of the sheet, and ruled with blue cross lines, sufficient to contain the names of 220 persons objected to on each sheet - - - }	20 0	30 0
7 Notice of Claim - - - -		
SCHEDULE D.		
1 Table of rates of payment, 1s.3d. per 100		

Receipts to be given by overseers to the clerks of the peace acknowledging the receipt and number of each respective form, 6s. per 100, fly-leaves.

Registration Act—continued.

Books for copying in the lists of voters transmitted by the revising barristers to the clerks of the peace, agreeably to the 47th section, containing 1200 blue lines, each line calculated for a name, &c., 12s.

Boroughs.**SCHEDULE B.**

	Price per quire.	Price per 250 Copies.
	s. d.	s. d.
1 Precept to overseers, printed on good writing paper, foolscap, 13 by 8½ in. }	2 6	8 6
2 Notice to be given by do. -	2 6	6 0
3 Lists for entering the names of persons entitled to vote, printed on <i>half-sheets</i> of fine paper, ruled with blue cross lines, sufficient to contain 50 claimants on each <i>half-sheet</i> - }	2 0	12 0
Do. do. <i>whole sheets</i> , fine paper, printed on both sides of the sheet, and ruled with blue cross lines, sufficient to contain 220 claimants on <i>each sheet</i> }	4 0	20 0
4 Lists for entering the names of all persons (not being freemen) entitled to vote, half-sheets - - - }	2 0	12 0
Do. <i>whole sheets</i> - - - -	4 0	20 0
5 Lists for entering the names of freemen, printed, <i>half-sheets</i> - - }	2 0	12 0
Do. <i>whole sheets</i> - - - -	4 0	20 0
6 Notice of claim - - - -		
7 Notice of claim by freemen to be given to the town clerk - - - }		
8 Lists for entering the names of claimants to be published by the overseers, <i>half-sheets</i> - - - }	2 0	12 0
Do. <i>whole sheets</i> - - - -	4 0	20 0

Registration Act—continued.**Boroughs—continued.**

		Price per Quire.	Price per 250 Copies.
		s. d.	s. d.
SCHEDULE B.—continued.			
9	Lists for entering the names of claimants to be published by the town-clerk, <i>half-sheets</i> - - - }	2 0	12 0
	Do. <i>whole sheets</i> - - - - -	4 0	20 0
10	Notice of objection - - - - -		
11	Form of notice of objection to be given to parties objected to - - - }		
12	Lists for entering the names of persons objected to, to be published by the overseers, <i>half-sheets</i> - - }	2 0	12 0
	Do. <i>whole sheets</i> - - - - -	4 0	20 0
13	Lists for entering the names of persons objected to, to be published by the town clerks, <i>half-sheets</i> - - }	2 0	12 0
	Do. <i>whole sheets</i> - - - - -	4 0	20 0
SCHEDULE D.			
1	Table of rates of payment, 1s. 3d. per 100	1 3	
18	Notice of appeal in book of 100	4 0	
19	Notice of intention to oppose a claim - } Ditto	4 0	
20	Claim of person to vote in the district where his place of abode is situate - - - }	2 0	
21	Claim of person to poll, whose place of abode is not within the district - - - }	2 0	

Receipts to be given by overseers acknowledging the receipt and number of each respective form, 6s. per 100, fly-leaves.

Books for copying in the lists of voters transmitted by the revising barristers, agreeably to the 47th section, containing 1200 blue lines, each line calculated for a name, &c., 12s.

For every 1200 lines extra, 6s. : or may be had in loose sheets, at 6s. per quire, containing 1200 lines.

N.B.—It is well to observe, that a book will not hold 1200 names, on account of each parish requiring to be kept separate; for this, allowance should be made in the calculation.

Registration Act—continued.

THE REGISTRATION OF VOTERS ACT, By CHARLES GREVILLE PRIDEAUX, of Lincoln's Inn, Esq., Barrister-at-Law, Author of "*Prideaux's Churchwardens' Guide.*"—Price 5s. Second Edition.

Refreshment Houses and Wine Licences.

23 Vict. c. 27.

- A. Notice of Application for Licence
- A. A. Summons to show cause against notice of objection

Opening within prohibited hours, s. 27.

- B. Information
- C. Summons
- D. Conviction
- E. Warrant of Distress.
- F. Commitment

Offences against tenor of Licence, s. 29.

- G. Information
- H. Summons
- I. Conviction
- J. Warrant of Distress
- K. Commitment

Drunkenness, s. 40.

- L. Information
- M. Summons
- M. 1. Warrant where the summons is disobeyed.
- N. Conviction
- N. N. Ditto, where Imprisonment is adjudged
- P. Warrant of Distress for Costs
- O. Commitment
- O. O. Ditto, where Imprisonment is adjudged.

Drunkenness in Premises. s. 41.

- Q. Information.
- R. Summons.
- R. 1. Warrant where the summons is disobeyed.
- S. Conviction.
- T. Warrant of Distress.
- U. Commitment.

Search Warrant, see title Larceny.
Seamen, Merchant.

17 & 18 Vict. c. 104.

- 1 Information for neglecting, &c., to join ship, &c.; or to proceed to sea; or for absenting or deserting

Seamen, Merchant—continued.

- 2 Warrant to apprehend
- 3 Conviction
- 4 Commitment
- 5 Information for receiving wages of seamen when under £20
- 6 Summons
- 7 Order
- 8 Warrant to levy same
- 9 Commitment
- 10 Indenture for the binding of parish boys to the sea service

Servants.

Settled by C. S. GREAVES, Esq., Q. C.

20 Geo. 2, c. 19.

- 1 Complaint for nonpayment of wages, under section 1.
- 2 Summons
- 3 Order for payment
- 4 Warrant of Distress
- 5 Information for misusage, under section 2
- 6 Summons
- 7 Discharge

4 Geo. 4, c. 34.

- 8 Information for misconduct, under section 3
- 9 Warrant to apprehend
- 10 Conviction
- 11 Commitment

Sheriffs.

- 1 Bailiff's bonds
- 1 B—Bail bond to the sheriff
- 1 C—Indemnity bond
- 1 D—Replevin bond
- 1 E—Replevin warrant
- 2 Clauses of the act to be delivered to the bailiffs
- 3 Precept to summon jurors to assizes or general gaol delivery
- 4 Ditto to quarter sessions
- 5 Warrant on proclamation

Sheriffs—continued.

- 5 A—Warrant on writ of proclamation to outlawry
- 6 Ditto on habeas corpus
- 8 Summons on writ of inquiry
- 9 Levari facias taxes
- 10 Ven. exponas
- 11 Warrant on attachment of contempt, Queen's Bench
- 12 Ditto Exchequer
- 13 Ditto Chancery
- 14 Ditto distringas
- 15 Ditto capias
- 16 Ditto capias ad satisfaciendum, new Form under Procedure Act
- 18 Ditto Exchequer process by information
- 19 Fi. fa. for costs
- 20 Warrant on fieri facias ad satisfaciendum, new form under Procedure Act
- 26 Ditto on scire facias
- 29 Writ of possession, new form under Procedure Act
- 30 Bailiff's letters
- 30a Sheriff's bill of sale
- 31 County court summons
- 32 Special jury summonses to assizes under Procedure Act
- 32 A—Ditto for several causes
- 33 Warrant to levy Queen's debts on the long roll process
- 34 Warrant to levy issue on collectors of taxes
- 35 Bailiff's summons to persons named in his warrant to serve upon the jury in an execution of a writ of inquiry
- 36 Certificate to save auction duty on a sale, under an execution
- 37 Warrant on supersedeas of an attachment or distringas upon an appearance being entered
- 38 Sheriff's return to habeas corpus
- 38 A—Ditto to writ ca. sa. debt
- 52 Ditto follower
- 38 B—Ditto to writ ca. sa. case
- 53 Ditto follower
- 54 Ditto capias
- 55 Ditto follower
- 39 Inquisitions on writ of inquiry

Sheriffs—continued.

- 40 Officer's accounts
- 41 Writs entitled to poundage
- 42 Sheriff's discharge from custody
- 43 Warrant on writ of right and bailiff's summons thereon
- 44 Certificate of capias having been issued
- 47 Bailiff's return to writs, and notice to sheriff of having accepted bail
- 48 Ca. sa. consents
- 49 Bailiff's notice of having arrested defendant
- 50 Gaoler's bond
- 51 Sessions estreat roll

Returns from the London Agent to the Under Sheriff, of business done, to go by post, folio and quarto.

* * * "THE SHERIFF'S INDEX," containing ruled pages for the entry of writs, with the particulars of their issue, &c.—folio and quarto, bound and half-bound. Sheriffs' books for entering the rules. Seal-keepers' books. Sheriffs' seals engraved in relieve.

Slaughter-Houses.

20 & 21 Vict. c. 135.

- 1 Notice of special sessions
- 2 Notice of intention to apply for licence
- 3 Licence

Soldiers.

- 9 Information of a soldier having deserted
- 10 Commitment
- 11 Order for the reward
- 12 Attestation of a soldier's enlisting
- 13 Warrant for soldier's carriage where the distance does not exceed 15 miles
- 13* Another form where the distance does exceed 15 miles
- 16 Return of men who have deserted, with description of persons
- 17 Soldiers' billets.

Special Sessions.

- 1 Notice by clerk to justices of special sessions for appointment of constables—5 & 6 Vict. c. 109, s. 1; 7 & 8 Vict. c. 33, s. 7; 13 Vict. c. 20, s. 4.

Special Sessions—continued.

- 2 Notice by one justice of special sessions for granting licences to deal in game—1 & 2 W. 4, c. 32, s. 18; 7 & 8 Vict. c. 33, s. 7
- 3 Notice by one justice of special sessions for hearing application and complaint for non-payment of poor contribution—2 & 3 Vict. c. 84, s. 1; 7 & 8 Vict. c. 33, s. 7
- 4 Notice by one justice of special sessions for appointing special sessions for the highways—5 & 6 Will. 4, c. 50; 7 & 8 Vict. c. 33, s. 7; 13 Vict. c. 20, s. 4.
- 5 Notice of special sessions of granting alehouse licences
- 6 Notice of special sessions for any purpose

Steam Navigation.

9 & 10 Vict. c. 100.

- 1 Information for proceeding to sea, not being provided with hose; or for vessel not being divided into compartments; or for proceeding to sea without being provided with boats, and all other offences under s. 7
- 2 Summons
- 3 Conviction
- 4 Warrant of distress
- 5 Commitment
- 6 Information against master, &c., for not observing regulations as to passing and repassing vessels
- 7 Summons
- 8 Conviction
- 9 Warrant of distress
- 10 Commitment
- 11 Information for not exhibiting lights
- 12 Summons
- 13 Conviction
- 14 Warrant of distress
- 15 Commitment
- 16 Information for not transmitting declarations, s. 17
- 17 Summons
- 18 Conviction
- 19 Warrant of distress
- 20 Commitment
- 21 Information for neglecting to send notice of apprehended loss of steamer, s. 19

Steam Navigation—continued.

- 22 Summons
- 23 Conviction
- 24 Warrant of distress
- 25 Commitment
- 26 Information for obstructing inspectors, s. 22
- 27 Summons
- 28 Conviction
- 29 Warrant of distress
- 30 Commitment
- 31 Information against witness for non-attendance, &c., s. 32
- 32 Summons
- 33 Conviction
- 34 Warrant of distress
- 35 Commitment
- 36 Recognizance to appear on return of warrant of distress

Summary Proceedings,

20 & 21 Vict. c. 43.

- D. Statement of case
- A. Certificate of refusal to state a case
- B. Recognizance to prosecute appeal
- C. Notice of recognizance

Summons.

- 1 General summons directed to the party
- 1*Summons on information and complaint directed to constables, 4 on a sheet
- 1**The same form, 2 on a sheet
- 2 Common form of summons *with constables' return indorsed*
- 3 Summons of a witness

Surety.

- 1 Information and complaint of a person requiring surety from one threatening to do him some bodily harm
- 2 Warrant
- 3 Commitment for want of sureties, for a limited time, fixed by the justice
- 4 Commitment for want of sureties to appear at the sessions
- 5 Recognizance for the peace and good behaviour, *see title "Recognizance"*
- 6 Supersedeas or sureties found

Surety—continued.

- 7 Liberate to discharge one committed for want of sureties to keep the peace for a limited time
- 9 Liberate for one committed for want of sureties for personal appearance at sessions
- 10 Information of an intended breach of the peace
- 11 Warrant to apprehend
- 12 Commitment for refusing to find sureties for keeping the peace for a limited time. See *Willes v. Bridger*, 2 B. & A. 278, 5 Burn's Justice, vol. 6, Chit. edit.

Swearing.

- 1 Information
- 2 Summons
- 4 Conviction
- 3 Commitment

Taxes, Land, Assessed, and Income.

- 1 Collectors' bonds
- 2 Assessors' bonds

See also title "Precept."

Tenements Act.

1 & 2 Vict. c. 74.

- 1 Notice for the recovery of possession of tenements after due determination of the tenancy
- 2 Complaint to be made before two justices
- 3 Warrant to peace officers to take and give possession

Tenements (Small), Rating.

13 & 14 Vict. c. 99.

1. Notice of Vestry Meeting
2. Form of Resolution
3. Notice to Owners
4. Notice of Owner to compound for Rates

Test and Corporation Act.

Declarations required to be made before magistrates, as a qualification for certain offices and employments, bound in one-**QUIRE** books, rough calf, with the Act annexed; also the above form of declaration may be had by the **QUINS**, for filing amongst the records of Cities, Corporations, Boroughs, or Cinque Ports

Tithes.

- 1 Complaint for tithes due from any person
- 2 Summons for tithes due from any person
- 3 Order for payment of tithes due from any person
- 4 Distress for tithes due from any person
- 5 Complaint for quaker's tithes
- 6 Summons of a quaker for tithes
- 7 Order for quaker's tithes
- 8 Distress for quaker's tithes
- 31 Ten days' notice to a tenant of rentcharge in arrear, 1 Vict. c. 69, s. 8
- 32 Authority to bailiff to distrain for rentcharge in arrear
- 33 Notice by bailiff of having distrained

Trees, Fences, Gates.**Stealing and Damaging of.**

- A. Information for stealing or damaging with intent to steal the whole or part of any tree, sapling, shrub, or underwood—7 & 8 Geo. 4, c. 29, s. 39; *or*, for cutting or destroying the whole or any part of the above—7 & 8 Geo. 4, c. 30; *or*, for stealing or damaging with intent to steal any fence, post, pale or rail, gate or stile—7 & 8 Geo. 4, c. 29, s. 40; *or*, cutting or destroying the above—7 & 8 Geo. 4, c. 30, s. 23
- B. Summons
- C. Warrant
- D. Conviction
- E. Commitment
- F. Information for *second offence*—7 & 8 Geo. 4, c. 29, s. 39; 7 & 8 Geo. 4, c. 30, s. 21

Trees, Fences, Gates—continued.**Stealing and Damaging of—continued.**

- G. Summons
- H. Warrant
- I. Conviction
- K. Commitment

Vaccination.

3 & 4 Vict. c. 29, and 16 & 17 Vict. c. 100.

- 1 Information for neglecting to have a child vaccinated, or taken back for inspection
- 2 Summons
- 3 Warrant.

Vagrants, see also title Poor, Maintenance, Neglect of

- 3 General Commitment of a rogue and vagabond for a limited time—5 Geo. 4, c. 83, s. 4
- 4 Commitment to the house of correction, s. 5
- 5 General commitment of an idle and disorderly person for a limited time, s. 3
- 5* Examination of a vagrant—3 & 4 Will. 4, c. 40, s. 2
- 7 General conviction of a vagrant or idle and disorderly person, ss. 3, 4
- 16 Vagrant pass to Ireland, Scotland, with the examination thereon—3 & 4 Will. 4, c. 40, s. 2
- 17 Information to ground search warrant for searching lodging-houses for the entertainment of travellers, for idle and disorderly persons, rogues and vagabonds—5 Geo. 4, c. 83, s. 13
- 18 Search warrant

Warrants.

- 1 Common warrant indorsed to be executed in another county
- 2 Common warrant

Watching and Lighting Parishes.

3 & 4 Will. 4, c. 90.

- 1 Application by ratepayers to churchwardens to call a public meeting
- 2 Notification of time and place of meeting of, ratepayers
- 3 Book to be used at the meeting for determining whether the act shall come into operation
- 4 Book to be used in the election of inspectors
- 5 Minute of adoption of provisions of act
- 6 Minute stating the amount of money to be raised
- 7 Demand of poll
- 8 Notice of adoption of act
- 9 Notice of election of inspectors
- 10 Certificate to overseers of the election of inspectors
- 11 Notice by inspectors of being ready to produce accounts
- 12 Notice to be given by churchwardens on receipt of notice for inspectors
- 13 Ditto of vacancy in number of inspectors
- 14 Ditto to treasurer to deliver up books
- 15 Order on overseers to collect money
- 16 Notice to be given by overseers to treasurer
- 17 Treasurer's receipt to overseers
- 18 Notice of appeal

Weights and Measures.

5 & 6 Will. 4, c. 63.

- 1 Information against a person having light weights, unjust measures, or incorrect weighing machines
- 2 Summons
- 3 Conviction

Weights and Measures—continued.

- 5 Warrant of distress
- 6 Commitment for want of distress
- 7 Commitment where proof is given of the want of distress,
without issuing the warrant of distress

Wood, see title Trees.

Wreck and Salvage.

17 & 18 Vict. c. 104.

- 1 Notice of lord, &c., of manor, &c., to receiver of title or claim
to wreck, &c.
- 2 Information for keeping possession, &c., of wreck, &c., s. 5
- 3 Summons
- 4 Conviction
- 5 Commitment
- 6 Application of receiver, &c., to justice for warrant to search
for articles or droits
- 7 Warrant
- 8 Information against traders or dealers for not having name, &c.,
painted up
- 9 Summons
- 10 Commitment
- 11 Warrant of distress
- 12 Commitment
- 13 Permits of justice to cut up cable, &c.
- 14 Declaration to ground same
- 15 Information for cutting up cable, &c., without permit
- 16 Summons
- 17 Conviction
- 18 Warrant of distress
- 19 Commitment
- 20 Information against dealer in marine stores for purchasing
stores of a child under fourteen years old

Wreck and Salvage—continued.

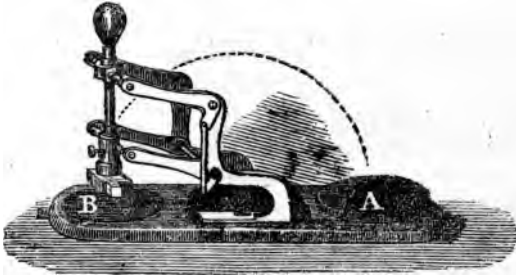
- 21 Summons
- 22 Conviction
- 23 Warrant of distress
- 24 Commitment
- 25 Information against dealer for not keeping book, &c. or not permitting inspection, &c.
- 26 Summons
- 27 Conviction
- 28 Warrant of distress
- 29 Commitment
- 30 General informations for other offences under the act
- 31 Summons
- 32 Conviction (Statutory)
- 33 Warrant of distress
- 34 Commitment

Youthful Offenders—Care and Reformation of.

17 & 18 Vict. c. 86; 18 & 19 Vict. c. 87; 19 & 20 Vict. c. 109; and 20 & 21 Vict. c. 55.

- A. & C. Conviction where the reformatory school is named or not named at the time of conviction
- A 1. & C 1. Ditto in cases of larceny
- B. & D. Commitment
- E. Order of justices naming the reformatory school when not named at the time of committal
- F. Supplemental order of justices changing the reformatory school
- H. Summons for enforcing in England and Wales contribution to the maintenance of a youthful offender from the parent or step-parent
- I. Order
- M. Summons for arrears due on order
- K. Warrant of distress
- L. Commitment in default
- 3. Commitment for escaping from reformatory school—17 & 18 Vict. c. 86.
 - A. Return of juvenile offenders committed to reformatory school under the 17 & 18 Vict. c. 86
 - B. Incidental return for the month
 - C Quarterly return

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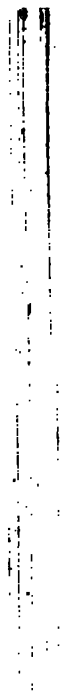
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